



California State Board of Pharmacy

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STATE AND CONSUMER SERVICES AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
ARNOLD SCHWARZENEGGER, GOVERNOR

Enforcement Committee Report

William Powers, Public Member, Chair
Marian Balay, Public Member
David Fong, Pharm.D.
Stan Goldenberg, RP.h.

Report of September 13, 2005

FOR ACTION

ACTION ITEM 1

That the Board of Pharmacy consider the proposed revisions to the disciplinary guidelines and consider whether or not to require a probationer to practice in a pharmacy or other board licensed entity during part or all of probation.

Discussion

The Board of Pharmacy has adopted via regulation its disciplinary guidelines. The board follows these guidelines in its disciplinary actions. The guidelines are used by Administrative Law Judges (ALJs) when issuing proposed decisions and the executive officer in negotiating stipulations. The last major revisions to these guidelines were in 2001.

The proposed revisions are to clarify language, ensure that the terms and conditions are consistent (where appropriate) for all license types, to modify language to ensure consistency with statutory changes and to add new terms of probation. **(Attachment A)**

The significant changes to the standard terms and conditions are:

- **Reporting to Board**: Adds language clarifying that failure to comply with this term constitutes a violation of probation and results in an extension of probation.
- **Notice to Employers**: Requires that the direct supervisor, owner and pharmacist-in-charge (PIC) are required to be provided with notice of respondent's probation; requires that each new PIC be notified of respondent's probation; and clarifies that failure to comply constitutes a violation of probation.
- **No Preceptorships, Supervision of Interns**: Deletes the term "preceptorship" to reflect the new law change, adds cannot serve as a consultant and that assumption of any unauthorized supervision responsibilities constitutes a violation of probation.

- Reimbursement of Board Costs: Adds option of revocation of license without further notice or opportunity to be heard for failure to pay costs as directed, and clarifies that failure to pay costs will be considered a violation of probation.
- Tolling of Probation: Adds language that further defines the circumstances and when probation is considered tolled, clarified definition of “cessation of practice” and that failure to comply with notification requirements in this provision constitute a violation of probation.
- Violation of Probation: Adds language that clarifies that automatic termination of any stay ordered by the board will take place as directed in specified conditions.
- Reexamination Prior to Resuming Work: Deletes this provision for an exemptee since examination of an exemptee is no longer required.

The significant changes to the optional conditions of probation for pharmacists and interns are:

- Actual Suspension: Moves the language to Model Orders.
- Restricted Practice: Adds the option of not working in a pharmacy licensed to compound injectable sterile drug products.
- Pharmacist Examination: Updates this condition to reflect new statutory examination requirements (Multi-State Jurisprudence Examination), and adds the requirement for additional semester units for failing to pass the exam after four attempts.
- Mental Health Examination: Adds clarifying requirements for submission of name and qualifications of a licensed mental health practitioner for board prior approval, submission of commencement of psychotherapy, changes in treatment and practitioner, frequency of therapy and requirement of evaluation.
- Psychotherapy and Medical Evaluation: Adds provision of ongoing treatment until therapist recommends and board approves that no further treatment is needed, and that respondent must cease practicing at any time the treating therapist finds that the respondent cannot practice safely.
- Pharmacists Recovery Program (PRP): Clarifies automatic suspension for participants not in compliance with program, added requirement of respondent to pay administrative fees as invoiced by the PRP and added the option of requiring the respondent to work in a pharmacy setting with access to controlled substances for a period of six months prior to successful completion of probation.
- Random Drug Screening: Clarifies automatic suspension for confirmed positive tests.
- Abstain from Drugs and Alcohol Use: Adds provision that respondent shall not be in the same physical location as individuals who are using illicit drugs even if respondent is not personally ingesting the drugs.
- Supervised Practice: Adds requirement that respondent cannot practice pharmacy and that respondent’s license is automatically suspended until the board approves the supervisor.

Proposed new terms and conditions of probation to be added to the disciplinary guidelines are:

- Coordination and Monitoring of Prescription Use (for chemically dependent pharmacists and interns): This optional term requires the coordination and monitoring of respondent’s prescription use for controlled substances and/or dangerous drugs by a physician, nurse practitioner or psychiatrist.
- Pharmacy Self-Assessment Mechanism (PSAM) (for pharmacists and interns): Requires respondent to complete the Pharmacy Self-Assessment Mechanism administered by the National Association of Boards of Pharmacy.
- No Being Designated Representative in Charge (DRIC): As a standard condition of probation, designated representatives (formerly called exemptees) cannot be designated representatives in charge.
- Posted Notice of Probation (premises): Requires all licensed premises on probation to post a notice of probation during the probation.

Supervising Inspector Joan Coyne whose team monitors the probationers and PRP participants noted that an increasing challenge to her team is the monitoring of probationers outside a licensed pharmacy. She explained

that language was added to the tolling provision to clarify when a pharmacist ceases to practice pharmacy and probation is then tolled; however, it is difficult to determine when a pharmacist ceases to practice if the pharmacist is not practicing in a pharmacy. Probationers may be working in positions that require licensure as a pharmacist but the positions are not in a pharmacy or entity licensed by the board. Examples of these practice sites include insurance companies, Pharmaceutical Benefits Managers (PBMs) and Department Health Services (DHS) MediCal.

The board often times has no ability to monitor the respondent in these types of “practice” settings. She stated that a provision is being added to the probation condition for pharmacists who must participate in the PRP to require the pharmacist to practice in a pharmacy and have access to controlled substances for six consecutive months in order to successfully complete the PRP. This provision is important to assure public safety prior to the pharmacist completing probation. She suggested a similar approach for all licensees on probation.

The following is an option for board consideration:

Employed as a “pharmacist” shall generally mean holding a position of employment for which licensure as a pharmacist is a job requirement. However, Respondent shall be employed for at least _____ hours per calendar month as a pharmacist in a licensed pharmacy setting that dispenses medication. After the first year of probation, Respondent may request to the Board or its designee, including but not limited to a Supervising Inspector overseeing Respondent's probation, a modification to this requirement. If Respondent fails to comply therewith, such failure shall be considered a violation of probation.

ACTION ITEM 2

That the Board of Pharmacy adopt a regulation to require a wholesaler to complete a self-assessment form.

Discussion

Supervising Inspector Judi Nurse prepared a self-assessment form for wholesalers. This form is modeled after the self-assessment form for pharmacies and its primary purpose is to promote compliance through self-examination and education. Supervisor Nurse manages the Fraud/Drug Diversion Team, which has the responsibility for routine compliance inspections of wholesalers, and it is anticipated that the self-assessment form would be a valuable tool for wholesalers to assure their compliance with pharmacy law. In addition, the form would assist with the routine compliance inspections. Often times when wholesaler inspections are performed, usually the exemptee-in-charge is not available and the exemptee that is present is not familiar with the operations. With a completed and available self-assessment form, the inspector can perform a comprehensive review of the wholesale facility and operations. **(Attachment B)**

It was suggested that the draft form be shared with the board’s stakeholders for review and comment. The committee recommended that the board adopt a regulation to require the self-assessment form for wholesalers. The proposal would require wholesalers to complete the form by July 1 of every odd-numbered year, whenever a new wholesaler permit has been issued, or there is a change in the exemptee-in-charge. It was noted that until such time that a regulation is adopted, the form would be available to wholesalers for self-guidance and completion on a voluntary basis.

Importation of Prescription Drugs

The importation of prescription drugs is an ongoing agenda item for the Enforcement Committee and Board of Pharmacy meetings for over the last three years. This has been a sensitive and controversial issue. The board has been tasked with balancing consumer access to affordable prescriptions against the safety and effectiveness of drugs obtained from foreign sources. The board has heard from many interested parties on this issue during its committee meetings and at its quarterly board meetings. The board's mandate is to protect the public, which includes patient access to "safe and affordable" prescription medications.

Attached are articles regarding recent developments on the issue of drug importation. **(Attachment C)**

Legibility of Prescriptions

At the July Board meeting, Pharmacist Jim Colucci requested that the board consider a future agenda item to require all prescriptions be printed, typed, or computer generated to improve legibility and prevent prescription errors. During the discussion, the board was reminded of previous legislation that required the Medical Board of California to perform a study on e-prescribing.

The legislation was AB1589 (Chapter 464, Statutes of 2001), which required the Medical Board to consult with the Board of Pharmacy and commission a study to evaluate the electronic transmission of prescriptions by physicians and surgeons and report its results to the Legislature on or before January 1, 2003. The bill specified that the Medical Board's report include recommendations on whether the electronic transmission of prescriptions should be encouraged, methods to encourage physicians and surgeons and other specified persons to use this method to transmit prescriptions, and to identify systems to protect the privacy of patients, including the issuance of a digital certification. AB 1589 did not appropriate funds for the Medical Board to conduct the study.

In 2001, Medical Board staff consulted with Paul Riches, Legislation Coordinator for the Board of Pharmacy, who suggested that the Medical Board review a November 2001, California Health Care Foundation Report titled, E-Prescribing. The Medical Board reviewed the report, adopted it as meeting the requirements of AB 1589, and submitted the report to the Legislature. **(Attachment D)**

It was also reported to the committee that current legislation, Senate Concurrent Resolution (SCR) 49 (Speier 2005) relating to medication errors, would create a panel to study the causes of medication errors and recommend changes in the health care system that reduces errors associated with the delivery of prescription and over the counter medication to consumers. The resolution would require the panel to convene by October 1, 2005, and to submit to the Assembly Committee on Health and the Senate Committee on Health a preliminary report by March 1, 2006, and a final report by June 1, 2006. It is anticipated that SCR 49 will be passed by the Legislature this session. Governor Schwarzenegger signed the resolution. **(Attachment E)**

The committee agreed that Pharmacist Colucci's request transcends many health professionals and the issue of prescription legibility and its impact on patient safety and prevention of prescription errors and the e-prescribing as a solution should be considered by the SCR 49 panel.

Clarification from DEA of Existing Requirements Under the Controlled Substances Act for Prescribing Schedule II Controlled Substances

On January 18, 2005, the Drug Enforcement Administration (DEA) published in the Federal Register a Solicitation of Comments on the subject of dispensing controlled substances for the treatment of pain. Most of the comments that the agency received sought clarification on the legal requirements governing the prescribing of schedule II controlled substances by physicians. Given the comments on August 26, 2005, the DEA reiterated its principles under the Controlled Substances Act and DEA regulations. The following is a summary of the notice:

- DEA stands firm that the act of a physician writing multiple prescriptions for a schedule II drug on the same day with instructions to fill on a future date is the same thing as writing a refill which conflicts with the provision of CSA that provides "No prescription for a controlled substance in schedule II may be refilled."
- DEA clarified that the Interim Policy did not mean that patients who have been receiving prescriptions for schedule II medications for several years for the treatment of severe pain or attention deficit hyperactivity disorder were required to see the physician each month in order to get another prescription. Physicians that properly determine there is a legitimate medical purpose and acting in their usual course of professional practice can determine whether a patient for whom they are prescribing a schedule II must be seen in person each time a prescription is issued or whether seeing the patient less frequently is consistent with sound medical practice and appropriately safeguards against diversion and misuse.
- If a physician decides to issue the schedule II prescription without seeing the patient, the physician can mail the prescription to the patient or to the pharmacy to be filled. Alternatively, the physician can fax a schedule II prescription to the pharmacy but the pharmacy must have the original signed prescription prior to dispensing the drug to the patient.
- The DEA and CSA regulations contain no specific limit on the number of days worth of schedule II controlled substance that a physician may authorize per prescription. However, any state limitations in place would apply.

DEA plans to complete its review of comments submitted last January and plans to issue a new Federal Register document. The board has taken the lead from Medical Board of California on this issue. In its April 2005 *Action Report* publication, Medical Board of California (MBC) caution physicians regarding DEA's interim policy statement on prescribing Schedule II controlled substances. The interim policy statement prohibits physicians from issuing multiple prescriptions for Schedule II controlled substances on the same day to the same patient with instructions for the pharmacy to fill some of the prescription on a specific date in the future.

In its April 2005 newsletter, MBC stated that unless DEA changes its position, physicians must see their patients each time a prescription for a Schedule II drug is written. However, MBC provided clarification in its July newsletter that stated the term "see" has implied to some that patients must be seen "face to face" each time and this was not the board's intent. It is MBC's position that the amount prescribed and period for follow-up is not dictated by the DEA, and is subject to the standard of care. MBC provided the following statement as guidance and clarity to physicians who prescribe Schedule II controlled substances to their patients:

When prescribing Schedule II controlled substances to patients, the length of time and quantity of each Schedule II prescription should be based on the needs of each patient and must be within the standards of responsible prescribing.

New Labeling Requirements – Physical Description of the Dispensed Medication

On January 1, 2006, new information must be added to labels on prescription containers dispensed from outpatient pharmacies. This requirement is the physical description of the dispensed medication, including its color, shape and any identification code that appears on the tablets or capsules. Exceptions to this labeling requirement are:

- Prescriptions dispensed by a veterinarian;
- Dispensed medications for which no physical description exists in any commercially available database;
- New drugs for the first 120 days that the drug is on the market and for the 90 days during which the national reference file has no description on file; and
- When a pharmacist dispenses a prescription drug for use in a facility licensed pursuant to section 1250 of the Health and Safety Code (e.g., acute care hospital, skilled nursing facility, and correctional treatment center) and the prescription drug is administered to a patient by a licensed certified nurse-midwife, nurse practitioner, physician assistant or pharmacist who is acting within his or her scope of practice.

This requirement is in Business and Professions Code section 4076(a)(11)(A).

Implementation of SB 1307 (Chapter 857, Statutes of 2004) Relating to Regulation of Wholesalers

Last year, the Board of Pharmacy sponsored SB 1307 (Figueroa). Governor Schwarzenegger signed the bill, which became effective January 1, 2005. The bill made various changes to the wholesaler requirements and distribution of dangerous drugs. Most of the changes strengthened and clarified the requirements for the distribution of dangerous drugs and dangerous devices in California.

The Enforcement Committee is monitoring the implementation of this legislation. One area of close oversight is the pedigree requirement. The bill requires an electronic pedigree by January 1, 2007 and gives the board the authority to extend the compliance date for wholesalers to January 1, 2008. The Legislature may extend the compliance date for pharmacies to January 1, 2009. The purpose of the pedigree is to maintain the integrity of the pharmaceutical supply chain in the United States.

It is anticipated that Radio Frequency Identification technology (RFID) will be the method used to track a drug's pedigree. The manufacturer would tag the drug with a small chip and antenna. When the tag is in close proximity of a reader, it would receive a low-powered radio signal and interact with a reader exchanging identification data and other information. Once the reader receives data, it would be sent to a computer for processing.

During the last year, the board and enforcement committee has had presentations from various companies displaying their electronic pedigree solutions. The first presentation was by T3Ci, an application software company that provides drug counterfeit, diversion detection and electronic drug pedigree for the pharmaceutical market. They demonstrated their technology solution for the electronic pedigree. The next presentations were by SupplyScape and Acerity Corporation. SupplyScape presented its electronic pedigree software program that enables a safe and secure pharmaceutical supply chain that complies with federal and state regulations to prevent counterfeit drugs. Acerity Corporation presented its security software program, which is an electronic authentication process. This system employs a cryptography techniques in conjunction with RFID forming a multiplayer secure process, which provides numerous advantages and allows versatile applications.

The board has been participating in the Uniform Drug Pedigree meetings. This is a group of participants that represents manufacturers, wholesalers, and regulators. The purpose of these meetings is to provide a cooperative effort to develop uniform standards and regulations regarding electronic pedigrees. She also stated that through the board's participation with this group and others, a list of questions and answers are being developed that will be shared at the next enforcement committee meeting in December.

Lew Kontnik, Director of Brand Protection/Business Continuity for Amgen presented to the committee the challenges that Amgen has encountered in developing an electronic pedigree for its manufactured products. He stated that Amgen, a billion dollar company that is headquartered in California, is the leading human therapeutics company in the biotechnology industry. He demonstrated the challenges that their company is facing in the implementation of RFID technology to track the electronic pedigree of its liquid products. Primarily he showed how the placement of the radio frequency tag on the products have resulted with inconsistent and inaccurate readings by the scanner unless the scanner is in close proximity of the tagged item, which is not conducive to tracking large quantities of distributed product. He also stated that whatever mechanism is used to generate the electronic pedigree, it must be in compliance with good manufacturing practices (GMPs), which is regulated by the federal Food and Drug Administration (FDA).

Upon conclusion of his presentation, Mr. Kontnik presented his company's position that it will be extremely difficult to meet the January 1, 2007 deadline to implement an electronic pedigree for its manufactured drug products.

The committee was also provided with background articles on counterfeit drugs and efforts to combat the problem. **(Attachment F)**

Enforcement Committee Meeting Summary of September 13, 2005 (Attachment G)

Enforcement Team Meeting Summary of September 13, 2005 (Attachment H)

Report on Enforcement Actions (Attachment I)

Quarterly Status Report on Committee Strategic Objectives for 2005/2006 (Attachment J)

ATTACHMENT A

Memorandum

To: BOARD MEMBERS

Date: October 18, 2005

From: Karen Cates
Enforcement Manager
Board of Pharmacy

Subject: Proposed Revisions to the Disciplinary Guidelines

Attached are portions of the Disciplinary Guidelines with suggested revisions for your review. Sections of the guidelines provided are the Introduction, Factors to be Considered in Determining Penalties, Mitigating Evidence, Categories of Discipline and Recommended Penalties, Model Disciplinary Language and Standard and Optional Terms and Conditions of Probation. Suggested revisions to the remaining sections of the Disciplinary Guidelines – law sections for each category of violation – will be provided at a subsequent meeting.

The Disciplinary Guidelines are being revised to clarify language, ensure that the terms and conditions are consistent for all license types (where appropriate), to revise language to ensure consistency with statutory changes and to add new terms of probation. Strike-outs indicate deleted language and underlines indicate new language.

Suggested changes, in part, to the Standard Terms and Conditions (pages 25-29) include: *(Please note that all standard terms will be the same for all license types where appropriate. All terms will be renumbered where needed.)*

- Term 2 - Reporting to Board: Added language clarifying that failure to comply with term constitutes a violation of probation and results in an extension of probation.
- Term 6 - Notice to Employers: Requires that direct supervisor, owner **and** pharmacist-in-charge are required to be provided with notice of respondent's probation; requires that each new PIC be notified of respondent's probation; and clarifies that failure to comply constitutes a violation of probation.
- Term 7 - No Preceptorships, Supervision of Interns.....: Deletes preceptorship to reflect new law changes re: preceptors, adds cannot serve as a consultant and that assumption of any unauthorized supervision responsibilities constitutes a violation of probation.
- Term 8 - Reimbursement of Board Costs: Adds option of revocation of license without further notice or opportunity to be heard for failure to pay costs as directed, and clarifies that failure to pay costs will be considered a violation of probation.
- Term 13 - Tolling of Probation: Language added to further define the circumstances and when probation is considered tolled, clarified definition of "cessation of practice"

and that failure to comply with notification requirements in this provision constitute a violation of probation. Adds new provision defining employment as a pharmacist and for the first year of probation, the minimum number of hours required for a probationer to work in a pharmacy setting that dispenses medication.

- Term 14 - Violation of Probation: Language added to clarify that automatic termination of any stay ordered by the board will take place as directed in specific conditions.
- Reexamination Prior to Resuming Work (for designated representatives, page 61): Deleted this provision as examination of a designated representative (exemptee) is no longer required.

Significant changes were made to the optional conditions of probation for pharmacists and interns, pages 29 – 43 as follows:

- Actual Suspension: Language moved to Model Orders, page 22
- Term 16 - Restricted Practice: Added option that probationer shall not prepare injectable sterile products during a specified period of probation.
- Term 17 - Pharmacist Examination: Updated condition to reflect new statutory examination requirements (California Jurisprudence Examination and NAPLEX), and adds the requirement for additional semester units for failing to pass the exam after four attempts.
- Term 18 - Mental Health Examination: Adds clarifying requirements for submission of name and qualifications of a licensed mental health practitioner for board prior approval, submission of commencement of psychotherapy, changes in treatment and practitioner, frequency of therapy and requirement of evaluation.
- Term 19 - Psychotherapy and Medical Evaluation: Added provision of ongoing treatment until therapist recommends and board approves that no further treatment is needed, and that respondent must cease practicing at any time the treating therapist finds that the respondent cannot practice safely.
- Term 21 - Pharmacists Recovery Program: Clarified automatic suspension for participants terminated from the program and automatic suspension for any confirmed positive drug/alcohol test and added requirement of respondent to pay administrative fees as invoiced by the PRP and added the option of requiring the respondent to work in a pharmacy setting with access to controlled substances for a period of six months prior to successful completion of probation
- Term 22 - Random Drug Screening: Clarified automatic suspension for confirmed positive tests.
- Term 23 - Abstain from Drugs and Alcohol Use: Added provision that respondent shall not be in the same physical location as individuals who are using illicit drugs even if respondent is not personally ingesting the drugs.
- Term 29 – Pharmacist Intern Experience: Deleted for Intern Pharmacist. This provision was intended for requiring pharmacists to obtain additional on-site experience.
- Term 30 - Supervised Practice: Added requirement that respondent cannot practice pharmacy and that his or her license is automatically suspended until a supervisor is approved by the board.

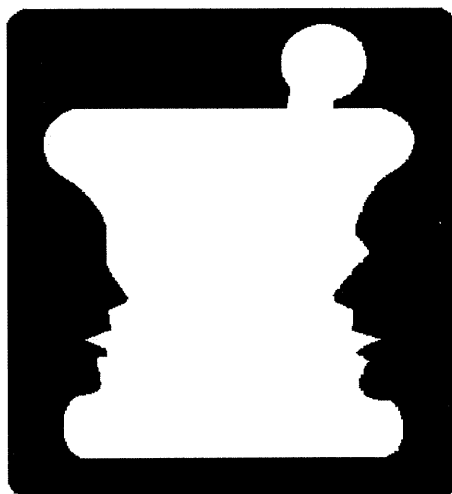
New terms and conditions of probation are:

- Term 24 - Prescription Monitoring (for pharmacists and interns), page 38: This term requires the coordination and monitoring of respondent's prescriptions for controlled substances and/or dangerous drugs by a physician, nurse practitioner or psychiatrist.
- Term 28 - Pharmacy Self-Assessment Mechanism (PSAM) (for pharmacists and interns), page 39: Requires respondent to complete the Pharmacy Self-Assessment Mechanism as provided by the National Association of Boards of Pharmacy.
- No Being Designated Representative in Charge (DRIC), page 62: As a standard condition of probation that designated representatives cannot be designated representatives in charge.
- Posted Notice of Probation (premises), page 88: Requires that all licensed premises on probation post a notice of probation during the entire period of probation.

Terms and conditions for pharmacists and interns begin on page 25, pharmacy technicians on page 49, designated representatives on page 61, premises on page 86.

DISCIPLINARY GUIDELINES

A Manual of Disciplinary Guidelines
and Model Disciplinary Orders



***BE AWARE & TAKE CARE:
Talk to your pharmacist!***

**California State Board of Pharmacy
Department of Consumer Affairs
(Rev. 4/200410/2005)**

STATE BOARD OF PHARMACY
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Additional copies of these disciplinary guidelines
may be ordered from the
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DEPARTMENT OF CONSUMER AFFAIRS STATE BOARD OF PHARMACY

DISCIPLINARY GUIDELINES (Rev. ~~1/2004~~10/2005)

INTRODUCTION

The Board of Pharmacy is responsible for the enforcement of statutes and regulations related to the practice of pharmacy (the Pharmacy Law) and to the regulation of controlled substances (the Uniform Controlled Substances Act). The board serves the public by:

- ☐ protecting the health, safety, and welfare of the people of California with integrity and honesty;
- ☐ advocating the highest quality of affordable pharmaceutical care;
- ☐ providing the best available information on pharmaceutical care; and
- ☐ promoting education, wellness and quality of life.

Pharmacists are patient advocates who provide pharmaceutical care and exercise clinical judgment for the citizens of California enlightening them about their drug therapy through effective communicating and listening, assessing, collaborating, understanding and intervening. ~~In addition, enforcement officials are provided the resources to act quickly, consistently and efficiently in the public's interest~~ to ensure the safe, effective delivery of these services.

The board recognizes the importance of ensuring the safe and effective delivery of dangerous drugs and controlled substances for therapeutic purposes. At the same time, and given the historical and current abuse and diversion of drugs, particularly controlled substances, the board believes there should be no tolerance for licensees who traffic in drugs or who, in the absence of appropriate evidence of rehabilitation, personally abuse drugs or alcohol.

In accordance with section 1760 of the California Code of Regulations, the board has produced this booklet for those involved in and affected by the disciplinary process: the general public, attorneys from the Office of the Attorney General, administrative law judges from the Office of Administrative Hearings, defense attorneys, board licensees, the courts, board staff and board members who review and vote on proposed decisions and stipulations.

These guidelines are to be followed in Board of Pharmacy disciplinary actions. ~~The Subject to judicial review,~~ the board has the final authority over the disposition of its cases, and, to complete its work, it uses the services of the Office of the Attorney General and the Office of Administrative Hearings. The board recognizes that individual cases may necessitate a departure from these guidelines. In such cases, the mitigating or aggravating circumstances shall be detailed in any proposed decision or any transmittal memorandum accompanying a proposed stipulation, especially where Category III violations are involved.

~~The board has found that accusations are rarely filed except in serious cases.~~ In general, the position of the board is that revocation should always be an option whenever grounds for

discipline are found to exist. Board policy is that revocation is generally an appropriate order where a respondent is in default, such as when he or she fails to file a notice of defense or fails to appear at a disciplinary hearing.

Board policy is that a suspension, where imposed, should be at least 30 days for an individual and at least 14 days for a licensed premises.

The board seeks recovery of all investigative and prosecution costs up to the hearing in all disciplinary cases. This includes all charges of the Office of the Attorney General, including, but not limited to, those for legal services, and includes charges by expert consultants. The board believes that the burden of paying for disciplinary cases should fall on those whose conduct requires investigation and prosecution, not upon the profession as a whole.

The board recognizes there may be situations where an individual licensee deserves a stronger penalty than the pharmacy for which he or she works, but the board also believes in holding a pharmacy owner, manager, and/or pharmacist-in-charge responsible for the acts of their employees who operate the pharmacy. Similarly, the board recognizes that in some cases a licensed premises may well be more culpable than any individual licensed by or registered with the board.

For purposes of these guidelines "board" includes the board and/or its designees.

FACTORS TO BE CONSIDERED IN DETERMINING PENALTIES

Section 4300 of the Business and Professions Code provides that the board may discipline the holder of, and suspend or revoke, any certificate, license or permit issued by the board.

In determining whether the minimum, maximum, or an intermediate penalty is to be imposed in a given case, factors such as the following should be considered:

1. actual or potential harm to the public
2. actual or potential harm to any consumer
3. prior disciplinary record, including level of compliance with disciplinary order(s)
4. prior warning(s) ~~of record(s)~~ , including but not limited to citation(s) and fine(s), letter(s) of admonishment, and/or correction notice(s)
5. number and/or variety of current violations
6. nature and severity of the act(s), offense(s) or crime(s) under consideration
7. aggravating evidence
- ~~7-8.~~ mitigating evidence
- ~~8-9.~~ rehabilitation evidence
- ~~9-10.~~ compliance with terms of any criminal sentence
- ~~10-11.~~ overall criminal record
- ~~11-12.~~ if applicable, evidence of proceedings for case being set aside and dismissed pursuant to section 1203.4 of the Penal Code
- ~~12-13.~~ time passed since the act(s) or offense(s)
- ~~13-14.~~ whether the conduct was intentional or negligent, demonstrated incompetence, or, if the respondent is being held to account for conduct committed by another, the respondent had knowledge of or knowingly participated in such conduct
- ~~14-15.~~ financial benefit to the respondent from the misconduct.

No single one or combination of the above factors is required to justify the minimum and/or maximum penalty in a given case, as opposed to an intermediate one.

MITIGATING EVIDENCE

A respondent is permitted to present mitigating circumstances at a hearing or in the settlement process and has the burden of demonstrating any rehabilitative or corrective measures he or she has taken. The board does not intend, by the following references to written statements, letters, and reports, to waive any evidentiary objections to the form or admissibility of such evidence. The respondent must produce admissible evidence in the form required by law in the absence of a stipulation to admissibility by the complainant.

The following are examples of appropriate evidence a respondent may submit to demonstrate his or her rehabilitative efforts and competency:

- a. Recent, dated written statements and/or performance evaluations from persons in positions of authority who have on-the-job knowledge of the respondent's current competence in the practice of pharmacy including the period of time and capacity in which the person worked with the respondent. Such reports must be signed under penalty of perjury and will be subject to verification by board staff.
- b. Recent, dated letters from counselors regarding the respondent's participation in a rehabilitation or recovery program, which should include at least a description and requirements of the program, a psychologist's diagnosis of the condition and current state of recovery and the psychologist's basis for determining rehabilitation. Such letters and reports will be subject to verification by board staff.
- c. Recent, dated letters describing the respondent's participation in support groups, (e.g., Alcoholics Anonymous, Narcotics Anonymous, professional support groups, etc.). Such letters and reports will be subject to verification by board staff.
- d. Recent, dated laboratory analyses or drug screen reports, confirming abstention from drugs and alcohol. Such letters and reports will be subject to verification by board staff.
- e. Recent, dated physical examination or assessment report by a licensed physician, confirming the absence of any physical impairment that would prohibit the respondent from practicing safely.
- f. Recent, dated letters from probation or parole officers regarding the respondent's participation in and/or compliance with terms and conditions of probation or parole, which should include at least a description of the terms and conditions, and the officer's basis for determining compliance. Such letters and reports will be subject to verification by board staff.

TERMS OF PROBATION – PHARMACIST/INTERN PHARMACIST

A minimum three-year probation period has been established by the board as appropriate in most cases where probation is imposed. A minimum five-year probation period has been established by the board as appropriate where self-administration or diversion of controlled substances is involved. Terms and conditions are imposed to provide consumer protection and to allow the probationer to demonstrate rehabilitation. A suspension period may also be required as part of the probation order. The board prefers that any stayed order be for revocation rather than for some period of suspension.

Probation conditions are divided into two categories: (1) standard conditions that shall appear in **all** probation cases, and (2) optional conditions that depend on the nature and circumstances of a particular case. These conditions may vary depending on the nature of the offense(s).

The board may also impose any other condition appropriate to the case where the condition is not contrary to public policy.

CATEGORIES OF VIOLATIONS AND RECOMMENDED PENALTIES

The California Pharmacy Law specifies the offenses for which the board may take disciplinary action. The following are categories of violations used by the board in determining appropriate disciplinary penalties.

The board also has the authority, pursuant to Business and Professions Code section 4301(n), to impose discipline based on disciplinary action taken by another jurisdiction. The discipline imposed by the board will depend on the discipline imposed by the other jurisdiction, the extent of the respondent's compliance with the terms of that discipline, the nature of the conduct for which the discipline was imposed, and other factors set forth in these guidelines.

Pharmacist/Intern Discipline Categories

(In this format for reference only)

CATEGORY I

Minimum: Revocation; Revocation stayed; one year probation. All standard terms and conditions shall be included and optional terms and conditions as appropriate.

Maximum: Revocation

Category I discipline is recommended for:

- violations which are relatively minor but are potentially harmful
- repeated violations of a relatively minor nature:

CATEGORY II

Minimum: Revocation; Revocation stayed, three years probation (five years probation where self-administration or diversion of controlled substances is involved). All standard terms and conditions shall be included and optional terms and conditions as appropriate.

Maximum: Revocation

Category II discipline is recommended for:

- violations with a serious potential for harm
- violations which involve greater disregard for pharmacy law and public safety
- violations which reflect on ethics, care exercised or competence or a criminal conviction not involving dangerous drugs or controlled substances or involving possession or use of dangerous drugs or controlled substances.

CATEGORY III

Minimum: Revocation; Revocation stayed, 90 days actual suspension, three to five years probation (five years probation where self-administration or diversion of controlled substances is involved). All standard terms and conditions and optional terms and conditions as appropriate.

Maximum: Revocation

Category III discipline is recommended for:

- most criminal convictions involving dangerous drugs or controlled substances
- knowing or willfully violating laws or regulations pertaining to dispensing or distributing dangerous drugs or controlled substances
- fraudulent acts committed in connection with the licensee's practice
- drug shortages
- violation of a licensee's corresponding responsibility.

MODEL DISCIPLINARY LANGUAGE – PHARMACIST/INTERN PHARMACIST

The following standardized language shall be used in every decision where the order or condition is imposed.

Revocation – ~~Single Cause~~

License number _____, issued to respondent _____ is revoked.

Respondent shall relinquish his or her wall license and pocket renewal license to the board within 10 days of the effective date of this decision. Respondent may not petition the board for reinstatement of his or her revoked license for three years from the effective date of this decision. Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$_____ within 15 days of the effective date of this decision.

Option: Upon reinstatement of his or her revoked license, respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$_____. Said amount shall be paid in full prior to the reinstatement of his or her license. If respondent fails to pay the amount specified, his or her license shall remain revoked.

Revocation – ~~Multiple Causes~~

License number _____, issue to respondent _____ is revoked pursuant to Determination of Issues _____, separately and together.

Respondent shall relinquish his or her wall license and pocket renewal license to the board within 10 days of the effective date of this decision. Respondent may not petition the board for reinstatement of his or her revoked license for three years from the effective date of this decision. Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$_____ within 15 days of the effective date of this decision.

Option: Upon reinstatement of his or her revoked license, respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$_____. Said amount shall be paid in full prior to the reinstatement of his or her license. If respondent fails to pay the amount specified, his or her license shall remain revoked.

Suspension – Single Cause

License number _____, issued to respondent _____ is suspended for a period of _____.

As part of probation, respondent is suspended from the practice of pharmacy for _____ beginning the effective date of this decision.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Respondent shall not resume practice until notified by the board.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board. Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Suspension – Multiple Causes

License number _____, issued to respondent is suspended for a period of _____ pursuant to Determination of Issues _____, separately and together. All suspensions shall run concurrently.

Respondent is suspended from the practice of pharmacy for _____ beginning the effective date of this decision.

Standard Stay/Probation Order

License number _____, issued to respondent is revoked _____; however, the revocation _____ is stayed and respondent is placed on probation for _____ years upon the following terms and conditions:

Issuance of Probationary License (In cases where a Statement of issues has been filed)

The application for licensure of respondent is hereby granted, on the following terms and conditions:

1. That, respondent first meet all statutory and regulatory requirements for the issuance of a license to _____.
2. That, following the satisfaction of #1, respondent's license be issued and immediately revoked, the order of revocation being stayed and respondent placed on probation for a period of _____ years on the following terms and conditions:

Surrender

Respondent surrenders license number _____ as of the effective date of this decision. Respondent shall relinquish his or her wall license and pocket renewal license to the board within 10 days of the effective date of this decision. Respondent may not reapply for any license, permit, or registration from the board for three years from the effective date of this decision. Respondent stipulates that should he or she apply for any license from the board on or after the effective date of this decision, all allegations set forth in the [accusation or petition to revoke probation] shall be deemed to be true. Respondent shall satisfy all requirements applicable to that license as of the date the application is submitted to the board, including, but not limited to taking and passing the California Pharmacist Licensure Examination prior to the issuance of a new license. Respondent is ~~obligated~~ required to report this surrender as disciplinary action.

Respondent further stipulates that he or she shall reimburse the board for its costs of investigation and prosecution in the amount of \$ _____ within _____ days of the effective date of this decision.

Option: Respondent stipulates that should he or she apply for any license from the board on or after the effective date of this decision the investigation and prosecution costs in the amount of \$ _____ shall be paid to the board prior to issuance of the new license.

Public Reprimand

It is hereby ordered that a public reprimand be issued against licensee, _____.
Respondent is required to report this reprimand as a disciplinary action.

Adoption of Stipulation

It is understood by respondent that, in deciding whether to adopt this stipulation, the board may receive oral and written communication from its staff and the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the board or other persons from future participation in this or any other matter affecting respondent. In the event this settlement is not adopted by the board, the stipulation will not become effective and may not be used for any purpose, except this paragraph, which shall remain in effect.

STANDARD CONDITIONS - To be included in all probation decisions/orders.

Term Number: ~~(Numbers reflect actual term and condition numbers as listed beginning with page _____.)~~

1. Obey all Laws
2. Reporting to the Board
3. Interview with the Board
4. Cooperation with Board Staff
5. Continuing Education
6. Notice to Employers
7. ~~No Preceptorships~~, Supervision of Interns, Being Pharmacist-In-Charge (PIC), or Serving as a Consultant
8. Reimbursement of Board Costs
9. Probation Monitoring Costs
10. Status of License
11. License Surrender While on Probation/Suspension
12. Notification of Employment/, Name, Mailing Address Change
13. Tolling of Probation
14. Violation of Probation
15. Completion of Probation

OPTIONAL CONDITIONS

Term Number: ~~(Numbers reflect actual term and condition numbers as listed beginning with page _____.)~~

- ~~1. Actual Suspension~~
- ~~2-16. Restricted Practice~~
- ~~3-17. Pharmacist Examination~~
- ~~4-18. Mental Health Examination~~
- ~~5-19. Psychotherapy~~
- ~~6-20. Medical Evaluation~~
- ~~7-21. Rehabilitation Program~~
- ~~8-22. Random Drug Screening~~
- ~~9-23. Abstain from Drugs and Alcohol Use~~
- ~~24. Prescription Coordination and Monitoring of Prescription Use~~
- ~~10-25. Community Services Program~~
- ~~11-26. Restitution~~
- ~~12-27. Remedial Education~~
- ~~28. Pharmacy Self-Assessment Mechanism~~
- ~~13-29. Pharmacyist Intern Experience~~
- ~~14-30. Supervised Practice~~
- ~~15-31. No Supervision~~
- ~~16-32. No Ownership of Premises~~
- ~~17-33. Separate File of Records~~
- ~~18-34. Report of Controlled Substances~~
- ~~19-35. No Access to Controlled Substances~~
- ~~20-36. Criminal Probation/Parole Reports~~
- ~~21-37. Consultant for Owner or Pharmacist-In-Charge~~
- ~~22-38. Tolling of Suspension~~

STANDARD CONDITIONS: TO BE INCLUDED IN ALL PROBATIONS RPH/INTERNS

1. Obey All Laws

Respondent shall obey all state and federal laws and regulations ~~substantially related to or governing the practice of pharmacy.~~

Respondent shall report any of the following occurrences to the board, in writing, within seventy-two (72) hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state and or federal agency which involves respondent's _____ license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for of any drug, device or controlled substance.

2. Reporting to the Board

Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, Respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report **is not** made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the board.

3. Interview with the Board

Upon receipt of reasonable notice, respondent shall appear in person for interviews with the board or its designee upon request at various intervals at a location to be determined by the board or its designee. Failure to appear for a scheduled interview without prior notification to board staff shall be considered a violation of probation.

4. Cooperation with Board Staff

Respondent shall cooperate with the board's inspectional program and ~~in-with~~ the board's monitoring and investigation of respondent's compliance with the terms and conditions of his or her probation. Failure to cooperate or comply shall be considered a violation of probation.

5. Continuing Education

Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the board or its designee.

6. Notice to Employers

During the period of probation, rRespondent shall notify all present and prospective employers of the decision in case number _____ and the terms, conditions and restrictions imposed on respondent by the decision, as follows: ---Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause his or her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and/or owner to report to the board in writing acknowledging that the employer has read the decision in case number _____ and terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the board.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at every pharmacy of the ~~and~~ terms and conditions of the decision in case number _____ in advance of the respondent commencing work at each pharmacy.

Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgements to the board shall be considered a violation of probation.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary, relief or pharmacy management service as a pharmacist or in any position for which a pharmacist licenses is a requirement or criterion for employment, whether the respondent is considered an employee or independent contractor.

7. ~~No Preceptorships~~, Supervision of Interns, Being Pharmacist-in-Charge (PIC), or Serving as a Consultant

During the period of probation, rRespondent shall not supervise any intern pharmacist or perform any of the duties of a preceptor, nor shall respondent be the pharmacist-in-charge of any entity licensed by the board nor serve as a consultant unless otherwise specified in this order. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

8. Reimbursement of Board Costs

As a condition precedent to successful completion of probation, rRespondent shall pay to the board its costs of investigation and prosecution in the amount of \$_____. Respondent shall make said payments as follows: _____. There shall be no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by respondent shall not relieve respondent of his or her responsibility to reimburse the board its costs of investigation and prosecution.

Option: If respondent fails to make any payment by the directed deadline(s), the stay shall terminate and the license shall be revoked without further notice or opportunity to be heard.

9. Probation Monitoring Costs

Respondent shall pay the any costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board ~~at the end of each year of probation~~ on a schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

10. Status of License

Respondent shall, at all times while on probation, maintain an active current license with the board, including any period during which suspension or probation is tolled. Failure to maintain an active, current license shall be considered a violation of probation.

If respondent's license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication, respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

11. License Surrender while on Probation/Suspension

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her license to the board for surrender. The board shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation.

Upon acceptance of the surrender, respondent shall relinquish his or her pocket license to the board within 10 days of notification by the board that the surrender is accepted. Respondent may not reapply for any license from the board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.

12. Notification of Employment/, Name, Mailing Address Change

Respondent shall notify the board in writing within ten (10) days of any change of employment. Said notification shall include the reasons for leaving and ~~or~~ the address of the new employer, supervisor or owner and work schedule, if known. Respondent shall notify the board in writing within ten (10) days of a change in name, mailing address or phone number.

Failure to timely notify the board of any change in employer(s), name(s), address(es), or phone number(s) shall be considered a violation of probation.

13. Tolling of Probation

At all times while on probation, respondent shall be employed as a pharmacist in California for a minimum of _____ hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation.

Should respondent, regardless of residency, for any reason (including vacation) cease practicing pharmacy as a pharmacist for a minimum of _____ hours per calendar month in California, respondent must notify the board in writing within ten (10) days of the cessation of the practice of pharmacy or, and must further notify the board in writing within ten (10) days of the resumption of the practice of pharmacy. Such periods of time shall not apply to the reduction of the probation period. Any failure to provide such notification(s) shall be considered a violation of probation.

It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding three consecutive years/thirty-six (36) months.

"Cessation of practice" means any period of time exceeding 30 days calendar month in during which respondent is not employed for at least _____ hours as a pharmacist, as defined by Business and Professions Code section 4000 et seq. engaged in the practice of pharmacy as defined in Section 4052 of the Business and Professions Code. "Resumption of practice" means any calendar month during which respondent is employed for at least _____ hours as a pharmacist as defined by Business and Professions Code section 4000 et seq.

Employed as a "pharmacist" shall generally mean holding a position of employment for which licensure as a pharmacist is a job requirement. However, Respondent shall be employed for at least _____ hours per calendar month as a pharmacist in a licensed pharmacy setting that dispenses medication. After the first year of probation, Respondent may request to the Board or its designee, including but not limited to a Supervising Inspector overseeing Respondent's probation, a modification to this requirement. If Respondent fails to comply therewith, such failure shall be considered a violation of probation.

Option: Respondent shall work at least 40 hours in each calendar month as a pharmacist and at least an average of 80 hours per month in any six consecutive months. Failure to do so will be considered a violation of probation. If respondent has not complied with this condition during the probationary term, and respondent has presented sufficient documentation of his or her good faith efforts to comply with this condition, and if no other conditions have been violated, the board or its designee, in its discretion, may grant an extension of respondent's probation period up to one 1 year without further hearing in order to permit respondent additional time within which to comply with this condition.

14. Violation of Probation

If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.

If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license.

If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction and the period of probation shall be automatically extended, until the petition to revoke probation or accusation is heard and decided.

~~If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.~~

15. Completion of Probation

Upon successful completion of probation, respondent's license will be fully restored.

OPTIONAL CONDITIONS OF PROBATION

(This condition will be included in the Model Order language.)

~~1. Actual Suspension~~

~~As part of probation, respondent is suspended from the practice of pharmacy for _____ beginning the effective date of this decision.~~

~~During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.~~

~~Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee for any entity licensed by the board. Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.~~

2. 16. Restricted Practice ~~(Where this condition is imposed, optional condition #7 should also be imposed)~~

Respondent's practice of pharmacy shall be restricted to [specify setting or type of practice] for the first _____ years of probation. Respondent shall submit proof satisfactory to the board of compliance with this term of probation.

Option: Respondent shall not prepare injectable sterile products during the first _____ years of probation. Respondent shall submit proof satisfactory to the board of compliance with this term of probation.

3. 17. Pharmacist Examination

Respondent shall take and pass the _____ section(s) California Jurisprudence Examination (CPJE) and/or the North American Pharmacist Licensure Examination (NAPLEX) within six (6) months of the pharmacist licensure examination as scheduled by the Board after the effective date of this decision at respondent's own expense. If respondent fails to take and pass the examination within six (6) months after of the effective of this decision, respondent shall be automatically suspended from practice upon written notice. Respondent shall not resume the practice of pharmacy until he or she takes and passes the same section(s) at a subsequent examination CPJE and is notified, in writing, that he or she has passed the examination. Respondent shall bear all costs of the examination.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee a designated representative for any entity licensed by the board. Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy licensed premises in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to take and pass the examination within one (1) year of the effective date of this decision shall be considered a violation of probation. Suspension and probation shall be extended until respondent passes the examination and is notified in writing. If respondent fails to take and pass the CPJE and/or NAPLEX after four attempts, respondent shall successfully complete, at a minimum, sixteen (16) additional semester units of education pharmacy as approved by the board.

4. 18. Mental Health Examination (Appropriate for those cases where evidence demonstrates that mental illness or disability was a contributing cause of the violations.)

Within thirty (30) days of the effective date of this decision, and on a periodic basis as may be required by the board or its designee, respondent shall undergo, at his or her own expense, psychiatric evaluation(s) by a board-appointed or board-approved psychiatrist or psychologist. The approved evaluator shall be provided with a copy of the board's accusation and decision. Respondent shall sign a release authorizing the evaluator to furnish the board with a current diagnosis and a written report regarding the respondent's judgment and ability to function independently as a pharmacist with safety to the public. Respondent shall comply with all the recommendations of the evaluator if directed by the board or its designee.

If the psychiatrist or psychotherapist recommends, and the board or its designee directs, respondent shall undergo psychotherapy. Respondent shall, within 30 days of written notice of the need for psychotherapy, submit to the board for its prior approval, the recommended

program for ongoing psychotherapeutic care. Respondent shall undergo and continue psychotherapy, at respondent's own expense, until further notice from the board. Respondent shall have the treating psychotherapist or psychiatrist submit written quarterly reports to the board as directed. Within thirty (30) days of the effective date of this decision, respondent shall submit to the board or its designee, for prior approval, the name and qualifications of a licensed mental health practitioner of respondent's choice. Within thirty (30) days of approval thereof, respondent shall submit documentation to the board demonstrating the commencement of psychotherapy with the approved licensed mental health practitioner. Should respondent, for any reason, cease treatment with the approved licensed mental health practitioner, respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement psychotherapist or licensed mental health practitioner of respondent's choice to the board for its prior approval. Within thirty (30) days of approval thereof, respondent shall submit documentation to the board demonstrating the commencement of psychotherapy with the approved replacement. Failure to comply with any deadline stated by this paragraph shall be considered a violation of probation.

Upon approval of the initial or any subsequent licensed mental health practitioner, respondent shall undergo and continue treatment with that therapist, at respondent's own expense, until the therapist recommends in writing to the board, and the board or its designee agrees by way of a written notification to respondent, that no further psychotherapy is necessary. Upon receipt of such recommendation from the treating therapist, and before determining whether to accept or reject said recommendation, the board or its designee may require respondent to undergo, at respondent's expense, a mental health evaluation by a board-appointed or board-approved psychiatrist or psychologist. If the approved evaluator recommends that respondent continue psychotherapy, the board or its designee may require respondent to continue psychotherapy.

Therapy shall be at least once a week unless otherwise approved by the board. Respondent shall provide the therapist with a copy of the board's accusation and decision no later than the first therapy session. Respondent shall take all necessary steps to ensure that the treating therapist submits written quarterly reports to the board concerning respondent's fitness to practice, progress in treatment, and such other information as may be required by the board or its designee.

If at any time the approved evaluator or respondent's treating psychotherapist determines that respondent is determined to be unable to practice safely or independently as a pharmacist, the evaluator or therapist shall notify the board immediately by telephone and follow up by written letter within three (3) working days. Upon notification from the board or its designee of this determination, upon notification, respondent shall immediately cease practice and shall not resume practice until notified by the board.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.

Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board. Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Option: Commencing on the effective date of this decision, respondent shall not engage in the practice of pharmacy until notified in writing by the board that respondent is has been deemed psychologically fit to practice pharmacy safely, and the board or its designee approves said recommendation.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or ~~an exemptee~~ a designated representative for any entity licensed by the board. Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Option: If recommended by the evaluating psychiatrist or psychotherapist and approved by the board, respondent shall be suspended from practicing pharmacy until the respondent's treating psychotherapist recommends, in writing, stating the basis therefor, that respondent can safely practice pharmacy, and the board or its designee approves said recommendation.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, **or** be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. Respondent shall not resume practice until notified by the board.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or ~~an exemptee~~ a designated representative for any entity licensed by the board. Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

5. 19. Psychotherapy (Appropriate for those cases where the evidence demonstrates mental illness or alcohol or drug abuse was involved in the violations.)

Within thirty (30) days of the effective date of this decision, respondent shall submit to the board or its designee, for its prior approval, the name and qualifications of a licensed mental health practitioner of respondent's choice. Within thirty (30) days of approval thereof, respondent shall submit documentation to the board demonstrating the commencement of psychotherapy with the approved licensed mental health practitioner. Should respondent, for any reason, cease treatment with the approved licensed mental health practitioner, respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement psychotherapist or licensed mental health practitioner of respondent's choice to the board for its prior approval. Within thirty (30) days of approval thereof, respondent shall submit documentation to the board demonstrating the commencement of psychotherapy with the approved replacement. Failure to comply with any deadline stated by this paragraph shall be considered a violation of probation.

Upon approval of the initial or any subsequent licensed mental health practitioner, respondent shall undergo and continue treatment with that therapist, at respondent's own expense, until the therapist recommends in writing to the board, and the board or its designee agrees by way of a written notification to respondent, that no further psychotherapy is necessary. Upon receipt of such recommendation from the treating therapist, and before determining whether to accept or reject said recommendation, the board or its designee may require respondent to undergo, at respondent's expense, a mental health evaluation by a board-appointed or board-approved psychiatrist or psychologist. If the approved evaluator recommends that respondent continue psychotherapy, the board or its designee may require respondent to continue psychotherapy.

Therapy shall be at least once a week unless otherwise determined approved by the board. Respondent shall provide the therapist with a copy of the board's accusation and decision no later than the first therapy session. Respondent shall take all necessary steps to ensure that the treating therapist submits written quarterly reports to the board concerning respondent's fitness to practice, progress in treatment, and to ~~provide~~ such other information as may be required by the board or its designee.

If at any time the treating therapist ~~finds~~ determines that respondent cannot practice safely or independently, the therapist shall notify the board immediately by telephone and followed up by written letter within three (3) working days. Upon notification from the board or its designee of this determination, respondent shall immediately cease practice and shall not resume practice until notified by the board.

~~Upon approval of the licensed mental health practitioner, respondent shall undergo and continue treatment with that therapist and at respondent's own expense, until the board deems that no further psychotherapy is necessary. The board may require respondent to undergo a mental health evaluation(s) by a board-appointed or board-approved licensed mental health practitioner.~~

6. 20. Medical Evaluation (Appropriate for those cases where the evidence demonstrates that the respondent has had a physical problem/disability which was a contributing cause of the violations and which may affect the respondent's ability to practice.)

Within thirty (30) days of the effective date of this decision, and on a periodic basis thereafter as may be required by the board, respondent shall undergo a medical evaluation, at

respondent's own expense, by a board-appointed or board-approved physician who shall furnish a medical report to the board. The approved physician shall be provided with a copy of the board's accusation and decision. Respondent shall sign a release authorizing the physician to furnish the board with a current diagnosis and a written report regarding the respondent's ability to function independently as a pharmacist with safety to the public. Respondent shall comply with all the recommendations of the physician if directed by the board or its designee.

If respondent is required by the board the physician recommends, and the board or its designee directs, that respondent to undergo medical treatment, respondent shall, within thirty (30) days of written notice from the board, submit to the board for its prior approval, the name and qualifications of a physician of respondent's choice. Upon board approval of the treating physician, respondent shall undergo and continue medical treatment, with that physician and at respondent's own expense, until further notice from the board. Respondent shall have the treating physician submit written quarterly reports to the board. Should respondent, for any reason, cease treatment with the approved physician, respondent shall notify the board immediately and, within 30 days of ceasing treatment, submit the name of a replacement physician of respondent's choice to the board for its prior approval. submit to the board or its designee, for prior approval, the name and qualifications of a licensed physician of respondent's choice. Within thirty (30) days of approval thereof, respondent shall submit documentation to the board demonstrating the commencement of treatment with the approved physician. Should respondent, for any reason, cease treatment with the approved physician, respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment, submit the name of a replacement physician of respondent's choice to the board for its prior approval. Within thirty (30) days of approval thereof, respondent shall submit documentation to the board demonstrating the commencement of treatment with the approved replacement. Failure to comply with any deadline stated by this paragraph shall be considered a violation of probation.

Upon approval of the initial or any subsequent physician, respondent shall undergo and continue treatment with that physician, at respondent's own expense, until the treating physician recommends in writing to the board, and the board or its designee agrees by way of a written notification to respondent, that no further treatment is necessary. Upon receipt of such recommendation from the treating physician, and before determining whether to accept or reject said recommendation, the board or its designee may require respondent to undergo, at respondent's expense, a medical evaluation by a separate board-appointed or board-approved physician. If the approved evaluating physician recommends that respondent continue treatment, the board or its designee may require respondent to continue treatment.

Respondent shall take all necessary steps to ensure that any treating physician submits written quarterly reports to the board concerning respondent's fitness to practice, progress in treatment, and such other information as may be required by the board or its designee.

If at any time an approved evaluating physician or respondent's approved treating physician determines that respondent is unable to practice safely or independently as a pharmacist, the evaluating or treating physician shall notify the board immediately by telephone and follow up by written letter within three (3) working days. Upon notification from the board or its designee of this determination, respondent shall immediately cease practice and shall not resume practice until notified by the board.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs

which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board. Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Option: Upon the effective date of this decision, respondent shall not engage in the practice of pharmacy until notified in writing by the board of its determination that respondent is medically fit to practice safely and independently, and the board or its designee approves said recommendation.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, **or** be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs or controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or ~~an exemptee~~ a designated representative for any entity licensed by the board. Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Option: If recommended by the evaluating physician and approved by the board, respondent shall be suspended from practicing pharmacy until the treating physician recommends, in writing, stating the basis therefor, that respondent can safely and independently resume the practice of a pharmacist, and the board or its designee approves said recommendation. Respondent shall not resume practice until notified by the board.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, **or** be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a

pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee a designated representative for any entity licensed by the board. Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

7.21. Rehabilitation Program - Pharmacists Recovery Program (PRP) (Appropriate for chemical dependency (alcohol, drugs), or psychiatric disorders (mental illness, emotional disturbance, gambling)

Within thirty (30) days of the effective date of this decision, respondent shall contact the Pharmacists Recovery Program (PRP) for evaluation and shall immediately thereafter enroll, successfully participate in and complete the treatment contract and any subsequent addendums as recommended and provided by the PRP and as approved by the board or its designee. The costs for PRP participation shall be borne by the respondent.

If respondent is currently enrolled in the PRP, said participation is now mandatory and as of the effective date of this decision is no longer considered a self-referral under Business and Professions Code section 4363, as of the effective date of this decision. Respondent shall successfully participate in and complete his or her current contract and any subsequent addendums with the PRP.

Probation shall be automatically extended until respondent successfully completes his or her treatment contract the PRP. Any person terminated from the PRP program shall be automatically suspended upon notice by the board. Respondent may not resume the practice of pharmacy until notified by the board in writing.

Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall result in the automatic suspension of practice by respondent and shall be considered a violation of probation. Respondent may not resume the practice of pharmacy until notified by the board in writing.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board. Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not paid to the PRP shall constitute a violation of probation. The board will collect unpaid administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

~~The board shall retain jurisdiction to institute action to terminate probation for any violation of this term.~~

Option: Respondent shall work in a pharmacy setting with access to controlled substances for six (6) consecutive months before successfully completing probation. If respondent fails to do so, probation shall be automatically extended until this condition has been met.

8.22. Random Drug Screening (If PRP provision is required, this term is also to be included to allow for continued fluid monitoring by the Board in cases where a respondent successfully complete the PRP before completion of the probation period; terms also appropriate for those cases where the evidence demonstrates that the respondent may have a problem with chemical dependency (drugs, alcohol) but where the PRP is not required.)

Respondent, at his or her own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or ~~a other~~ drug screening program approved as directed by the board or its designee. ~~The length of time shall be for the~~ Respondent may be required to participate in testing for the entire probation period and the frequency of testing will be determined by the board or its designee. At all times, respondent shall fully cooperate with the board or its designee, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its designee may direct. Failure to submit to testing as directed shall ~~constitute~~ be considered a violation of probation. Upon request of the board or its designee, respondent shall provide documentation from a licensed practitioner that the prescription for a detected drug was legitimately issued and is a necessary part of the treatment of the respondent. Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment drug test shall result in the immediate automatic suspension of practice by respondent and shall be considered a violation of probation. Respondent may not resume the practice of pharmacy until notified by the board in writing.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board. Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

23. Abstain from Drugs and Alcohol Use (If PRP provision is required, this term is also to be included to allow for continued fluid monitoring by the Board in cases where a respondent successfully complete the PRP before completion of the probation period; terms also appropriate for those cases where the evidence demonstrates that the respondent may have a problem with chemical dependency (drugs, alcohol) but where the PRP is not required.)

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the board or its designee, respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of the treatment of the respondent. Respondent shall ensure that he or she is not in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs.

24. Prescription Coordination and Monitoring of Prescription Use (Appropriate for chemical dependency (alcohol, drugs), or psychiatric disorders (mental illness, emotional disturbance, gambling)

Respondent shall submit to the board, for its prior approval, the name and qualifications of a single physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's history with the use of alcohol, controlled substances, and/or dangerous drugs and who will coordinate and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-altering drugs. The coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall report to the board on a quarterly basis for the duration of probation regarding respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances. The board may require that the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine. Any determination by the coordinating physician, nurse practitioner, physician assistant, or psychiatrist that respondent is no safe to practice will result in the automatic suspension of respondent's license.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board. Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

10.25. Community Services Program

Within sixty (60) days of the effective date of this decision, respondent shall submit to the board or its designee, for its prior approval, a community service program in which respondent shall provide free health-care related services on a regular basis to a community or charitable facility or agency for at least _____ hours per _____ for the first _____ of probation. Within thirty (30) days of board approval thereof, respondent shall submit documentation to the board demonstrating commencement of the community service program. Respondent shall report on progress with the community service program in the quarterly reports. Failure to timely submit, commence, comply or complete the program hours shall be considered a violation of probation.

11.26. Restitution (For Pharmacist and Premises) – (Appropriate in cases of drug diversion, theft, fraudulent billing, or patient harm resulting from negligence or incompetence.)

Within _____ days of the effective date of this decision, respondent shall pay restitution to _____ in the amount of \$ _____. Failure to make restitution by this deadline shall be considered a violation of probation.

12.27. Remedial Education

Within [thirty (30), sixty (60), ninety (90)] days of the effective date of this decision, respondent shall submit to the board or its designee, for its prior approval, an appropriate program of remedial education related to [the grounds for discipline]. The program of remedial education shall consist of at least _____ hours, which shall be completed within _____ months/year at respondent's own expense. The period of probation shall be extended until such remedial education is successfully completed and written proof, in a form acceptable to the board, is provided to the board. All remedial education shall be in addition to, and shall not be credited toward, continuing education (CE) courses used for license renewal purposes.

Failure to complete the approved remedial education as set forth hereinabove is grounds for the filing of a petition to revoke probation shall be considered a violation of probation. The period of probation will be automatically extended until such remedial education is successfully completed and written proof, in a form acceptable to the board, is provided to the board.

Following the completion of each course, the board may administer or its designee may require the respondent, at his or her own expense, to take an approved examination to test the respondent's knowledge of the course. If the respondent does not achieve a passing score on the examination, this failure shall be considered a violation of probation.

Option: Respondent shall be restricted from the practice of [areas where a serious deficiency has been identified] until the remedial education program has been successfully completed.

28. Pharmacy Self-Assessment Mechanism

Within the first year of probation, respondent shall complete the Pharmacist Self-Assessment Mechanism (PSAM) examination provided by the National Association of Boards of Pharmacy (NAPB). Respondent shall submit a record of completion to the board demonstrating he/she has completed this program. Respondent shall bear all costs for the examination.

13.29. Pharmacist Intern Experience ~~(For Intern Pharmacist)~~

Within ninety (90) days of the effective date of this decision, respondent shall submit to the board or its designee, for its prior approval, a pharmacy pharmacist intern training program consisting of _____ hours to be served as a pharmacist intern in community -and/or institutional pharmacy as directed. Respondent shall successfully complete the intern hours within the first year of probation and shall by no later than (1) year from the effective date of this decision submit a "Pharmacy Intern Experience Affidavit" and "Pharmacy Intern Hours Affidavit" and an "Affidavit of Intern Experience Obtained in Community and Institutional Pharmacy Settings" signed by a currently licensed pharmacist not on probation with the board. Failure to timely complete or document the required intern experience shall be considered a violation of probation.

14.30. Supervised Practice

During the period of probation, ~~r~~Respondent shall practice only under the supervision of a licensed pharmacist not on probation with the board. Upon and after the effective date of this decision, rRespondent shall not practice pharmacy and his or her license shall be automatically suspended until the a supervisor is approved by the board or its designee. The supervision shall be, as required by the board or its designee, either:

Continuous - 75% to 100% of a work week

Substantial - At least 50% of a work week

Partial - At least 25% of a work week

Daily Review - Supervisor's review of probationer's daily activities within 24 hours

Within thirty (30) days of the effective date of this decision, respondent shall have his or her supervisor submit notification to the board in writing stating that the supervisor has read the decision in case number _____ and is familiar with the required level of supervision as determined by the board or its designee. It shall be respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the board.

If respondent changes employment, respondent shall have his or her new supervisor, within fifteen (15) days after employment commences, submit notification to the board in writing stating the direct supervisor and pharmacist-in-charge have read the decision in case number _____ and is familiar with the level of supervision as determined by the board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely acknowledgements to the board shall be considered a violation of probation.

Within ten (10), days of leaving employment, respondent shall notify the board in writing.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a

pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board. Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

15.31. No Supervision

During the period of probation, Respondent shall not supervise any ancillary personnel, including, but not limited to, registered pharmacy technicians or exemptees designated representatives, of any entity licensed by the board.

16.32. No Ownership of Premises

Respondent shall not own, have any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90) days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.

Option: Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any additional business, firm, partnership, or corporation licensed by the board. If respondent currently owns or has any legal or beneficial interest in, or serves as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold that interest, but only to the extent of that position or interest as of the effective of this decision.

17.33. Separate File of Records (For pharmacist owners and pharmacists-in-charge)

Respondent shall maintain and make available for inspection a separate file of all records pertaining to the acquisition or disposition of all controlled substances. Failure to maintain such file or make it available for inspection shall be considered a violation of probation.

18.34. Report of Controlled Substances (For pharmacist owners and pharmacists-in-charge)

Respondent shall submit quarterly reports to the board detailing the total acquisition and disposition of such controlled substances as the board may direct. Respondent shall specify the manner of disposition (e.g., by prescription, due to burglary, etc.) or acquisition (e.g., from a manufacturer, from another retailer, etc.) of such controlled substances. Respondent shall report on a quarterly basis or as directed by the board. The report shall be delivered or mailed to the board no later than ten(10) days following the end of the reporting period. Failure to timely prepare or submit such reports shall be considered a violation of probation.

19.35. No Access to Controlled Substances

During the period of probation and as determined by the board or its designee, Respondent shall not order, possess, dispense or otherwise have access to any controlled substance(s) in

Schedule II, III, IV or V (Health and Safety Code sections 11055-11058 inclusive). Respondent shall not order, receive or retain any ~~triplicate security~~ prescription forms.

20.36. Criminal Probation/Parole Reports

Respondent shall provide a copy of the conditions of any criminal probation/parole to the board, in writing, within ten (10) days of the issuance or modification of those conditions. Respondent shall provide the name of his or her probation/parole officer to the board, in writing, within ten (10) days after that officer is designated or a replacement for that officer is designated. Respondent shall provide a copy of all criminal probation/parole reports to the board within ten (10) days after respondent receives a copy of such a report. Failure to timely make any of the submissions required hereby shall be considered a violation of probation.

21.37. Consultant for Owner or Pharmacist-in-Charge

(Option #1 for pharmacist owners - primarily intended for appropriate cases where the respondent is the owner and pharmacist of his or her own pharmacy, the standard language should be used in most cases.)

During the period of probation, Respondent shall not supervise any intern pharmacist, perform any of the duties of a preceptor or serve as a consultant to any entity licensed by the board. Respondent may be a pharmacist-in-charge. However, if during the period of probation respondent serves as a pharmacist-in-charge, respondent shall retain an independent consultant at his or her own expense who shall be responsible for reviewing pharmacy operations on a [monthly/quarterly] basis for compliance by respondent with state and federal laws and regulations governing the practice of pharmacy and for compliance by respondent with the obligations of a pharmacist-in-charge. The consultant shall be a pharmacist licensed by and not on probation with the board and whose name shall be submitted to the board or its designee, for its prior approval, within thirty (30) days of the effective date of this decision. Respondent shall not be a pharmacist-in-charge at more than one pharmacy or at any pharmacy of which he or she is not the sole owner.

(Option #2 - appropriate for pharmacists who are not pharmacy owners, but who wish, because of their current employment, to remain as the pharmacist-in-charge, and have provided documentation mitigating evidence to warrant this option.)

During the period of probation, Respondent shall not supervise any intern pharmacist, perform the duties of a preceptor or serve as a consultant to any entity licensed by the board. In the event that the respondent is currently the pharmacist-in-charge of a pharmacy, the pharmacy shall retain an independent consultant at its own expense who shall be responsible for reviewing pharmacy operations on a [monthly/quarterly] basis for compliance by respondent with state and federal laws and regulations governing the practice of pharmacy and for compliance by respondent with the obligations of a pharmacist-in-charge. The consultant shall be a pharmacist licensed by and not on probation with the board and whose name shall be submitted to the board or its designee, for its prior approval, within thirty (30) days of the effective date of this decision. Respondent shall not be a pharmacist-in-charge at more than one pharmacy or at any pharmacy of which he or she is not the current PIC. The board may, in case of an employment change by respondent or for other reasons as deemed appropriate by the board or its designee, preclude the respondent from acting as a pharmacist-in-charge.

22.38. Tolling of Suspension

During the period of suspension, respondent shall not leave California for any period exceeding ten (10) days, regardless of purpose (including vacation). Any absence from California during the period of suspension exceeding ten (10) days shall toll the suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days respondent is absent from California. During any such period of tolling of suspension, respondent must nonetheless comply with all terms and conditions of probation.

If respondent leaves California during the period of suspension for any period exceeding ten (10) days, including vacation, respondent must notify the board in writing within ten (10) days of departure, and must further notify the board in writing within ten (10) days of return. The failure to provide such notification(s) shall constitute a violation of probation. Upon such departure and return, respondent shall not resume practice as a(n) [pharmacist, etc.] until notified by the board that the period of suspension has been satisfactorily completed.~~to reside or practice outside this state, for any period exceeding 10 days (including vacation), respondent must notify the board in writing of the dates of departure and return. Periods of residency or practice outside the state or any absence exceeding a period of 10 days shall not apply to the reduction of the suspension period.~~

~~Respondent shall not practice pharmacy upon returning to this state until notified by the board that the period of suspension has been completed.~~

PHARMACY TECHNICIAN

The board files cases against pharmacy technicians where the violation(s) involve significant misconduct on the part of the licensee. The board believes that revocation is typically the appropriate penalty when grounds for discipline are found to exist. Grounds for discipline include, but are not limited to the following violation(s) of law(s) involving:

- Possession of dangerous drugs and/or controlled substances
- Use of dangerous drugs and/or controlled substances
- Possession for sale of dangerous drugs and/or controlled substances
- Personal misuse of drugs or alcohol

If revocation is not imposed, the board recommends a minimum of a Category III level of discipline be imposed on the pharmacy technician. This would include suspension and probation.

In addition, a pharmacy technician would be required to obtain certification from the Pharmacy Technician Certification Board (PTCB) prior to resuming work as a pharmacy technician. The board believes that certification prior to resuming work is always warranted in cases where a pharmacy technician registration is disciplined but not revoked.

Pharmacy technicians are issued a registration, based on minimal education or training requirements. No examination is required for issuance of the registration. Pharmacy technicians are not independent practitioners and must work under the supervision of a pharmacist. To place a pharmacy technician on probation places an additional burden on the pharmacist (who may or may not be on probation) to ensure that the respondent pharmacy technician complies with the terms and conditions of his or her probation.

TERMS OF PROBATION – PHARMACY TECHNICIAN

A minimum three-year probation period has been established by the board as appropriate in most cases where probation is imposed. A minimum five-year probation period has been established by the board as appropriate where self-administration or diversion of controlled substances is involved. Terms and conditions are imposed to provide consumer protection and to allow the probationer to demonstrate rehabilitation. A suspension period may also be required as part of the probation order. The board prefers that any stayed order be for revocation rather than for some period of suspension.

Probation conditions are divided into two categories: (1) standard conditions that shall appear in all probation cases, and (2) optional conditions that depend on the nature and circumstances of a particular case. These conditions may vary depending on the nature of the offense(s).

The board may also impose any other condition appropriate to the case where the condition is not contrary to public policy.

CATEGORY OF VIOLATIONS AND RECOMMENDED PENALTIES

CATEGORY III - Penalty

Minimum: Revocation; Revocation stayed, 90 days actual suspension, three years probation. All standard terms and conditions shall be included and optional terms and conditions as appropriate.

Maximum: Revocation

Applies to all applicable statutes and regulations

MODEL DISCIPLINARY LANGUAGE – PHARMACY TECHNICIAN

The following standardized language shall be used in every decision where the order of condition is imposed.

Revocation - Single Cause

Technician registration number _____, issued to respondent _____ is revoked. Respondent shall relinquish his or her pocket technician registration to the board within 10 days of the effective date of this decision. Respondent may not petition the board for reinstatement of his or her revoked technician registration for three years from the effective date of this decision.

A condition of reinstatement shall be that the respondent is certified by the Pharmacy Technician Certification Board (PTCB) and provides satisfactory proof of certification to the board.

Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$_____ within 15 days of the effective date of this decision.

Option: Upon reinstatement of his or her technician registration respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$_____, and said amount shall be paid in full prior to the reinstatement of his or her technician registration. If the respondent fails to pay the amount specified, his or her technician registration shall remain revoked.

Revocation - Multiple Causes

Technician registration number _____, issued to respondent _____ is revoked pursuant to Determination of Issues _____, separately and together. Respondent shall relinquish his or her pocket technician registration to the board within 10 days of the effective date of this decision. Respondent may not petition the board for reinstatement of his or her revoked technician registration for three years from the effective date of this decision. A condition of reinstatement shall be that the respondent is certified by the Pharmacy Technician Certification Board (PTCB) and provides satisfactory proof of certification to the board.

Respondent shall pay to the board its costs of investigation and prosecution in the amount of

\$_____ within 15 days of the effective date of this decision.

Option: Upon reinstatement of his or her technician registration respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$_____, and said amount shall be paid in full prior to the reinstatement of his or her technician registration. If the respondent fails to pay the amount specified, his or her technician registration shall remain revoked.

Suspension - Single Cause

Technician registration number _____, issued to respondent _____ is suspended for a period of _____.

Suspension - Multiple Causes

Technician registration number _____, issued to respondent is suspended for a period of _____ pursuant to Determination of Issues _____, separately and together. All suspensions shall run concurrently. Respondent is suspended from the duties of a pharmacy technician for _____ beginning the effective date of this decision.

Standard Stay/Probation Order

Technician registration number _____ issued to _____ is revoked; however, revocation is stayed and respondent is placed on probation for _____ years upon the following terms and conditions:

Surrender

Respondent surrenders technician registration number _____ as of the effective date of this decision. Respondent shall relinquish his or her pocket technician registration to the board within 10 days of the effective date of this decision. Respondent may not reapply for any technician registration of the board for three years from the effective date of this decision. Respondent stipulates that should respondent apply for any technician registration from the board on or after the effective date of this decision, all allegations set forth in the [accusation or petition to revoke probation] shall be deemed to be true. Should respondent apply for any new license, respondent will be subject to all terms and conditions not previously satisfied.

Respondent shall meet all requirements applicable to that technician registration as of the date the application is submitted to the board, including, but not limited to certification by a nationally recognized body prior to the issuance of a new registration.

Respondent further stipulates that he or she shall reimburse the board for its costs of investigation and prosecution in the amount of \$_____ within _____ days of the effective date of this decision.

Option: Respondent stipulates that should he or she apply for any technician registration from the board on or after the effective date of this decision that investigation and prosecution costs in the amount of \$_____ shall be paid to the board prior to issuance of the technician registration.

Adoption of Stipulation

It is understood by respondent that, in deciding whether to adopt this stipulation, the board may receive oral and written communication from its staff and the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the board or other persons from future participation in this or any other matter affecting respondent. In the event this settlement is not adopted by the board, the stipulation will not become effective and may not be used for any purpose, except this paragraph, which shall remain in effect.

STANDARD CONDITIONS – To be included in all probation decisions/orders.

~~Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page _____.)~~

1. Certification Prior to Resuming Work
2. Obey all Laws
3. Reporting to the Board
4. Interview with the Board
5. Cooperation with Board Staff
6. Notice to Employers
7. Reimbursement of Board Costs
8. Probation Monitoring Costs
9. Status of License
10. Notification of Employment, Name, /Mailing Address Change
11. License Surrender While on Probation/Suspension
- ~~11-12.~~ Tolling of Probation
- ~~12-13.~~ Violation of Probation
- ~~13-14.~~ Completion of Probation
- ~~14.~~ License Surrender While on Probation/Suspension

OPTIONAL CONDITIONS

~~Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page _____.)~~

- ~~1.~~ Actual Suspension
- ~~2-15.~~ No Ownership of Licensed Premises
- ~~3-16.~~ Attend Substance Abuse Recovery Relapse Prevention and Support Group
- ~~4-17.~~ Random Drug Screening
- ~~5-18.~~ Work Site Monitor
- ~~6-19.~~ Notification of Departure
- ~~7-20.~~ Abstain from Drugs and Alcohol Use
- ~~8-21.~~ Tolling of Suspension

STANDARD CONDITIONS: TO BE INCLUDED IN ALL PROBATIONS

PHARMACY TECHNICIAN

1. Certification Prior to Resuming Work

Respondent shall be automatically suspended from working as a pharmacy technician until he or she is certified by the Pharmacy Technician Certification Board (PTCB) and provides satisfactory proof of certification to the board. Failure to take and pass the PTCB within one year shall be considered a violation of probation.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

Subject to the above restrictions, respondent may continue to own or hold an interest in any entity licensed by the board in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

2. Obey All Laws

Respondent shall obey all state and federal laws and regulations ~~substantially related to or governing the practice of pharmacy.~~

Respondent shall report any of the following occurrences to the board, in writing, within seventy-two (72) hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state and or federal agency which involves respondent's _____ license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for of any drug, device or controlled substance.

3. Reporting to the Board

Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, Respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if

the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the board.

4. Interview with the Board

Upon receipt of reasonable notice, respondent shall appear in person for interviews with the board or its designee upon request at various intervals at a location to be determined by the board or its designee. Failure to appear for a scheduled interview without prior notification to board staff shall be considered a violation of probation.

5. Cooperation with Board Staff

Respondent shall cooperate with the board's inspectional program and ~~in with~~ the board's monitoring and investigation of respondent's compliance with the terms and conditions of his or her probation. Failure to cooperate or comply shall be considered a violation of probation.

6. Notice to Employers

During the period of probation, rRespondent shall notify all present and prospective employers of the decision in case number _____ and the terms, conditions and restrictions imposed on respondent by the decision, as follows: - Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause his or her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner employer to report to the board in writing acknowledging that the employer has read the decision in case number _____ and terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the board.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify the direct supervisor, pharmacist-in-charge and/or owner at every pharmacy of the terms and conditions of the decision in case number _____ in advance of the respondent commencing work at each pharmacy.

Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgements to the board shall be considered a violation of probation.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary or relief service or pharmacy management service as a pharmacy technician or in any position for which a pharmacy technician license is a requirement or criterion for employment, whether the respondent is considered an employee or independent contractor.

7. Reimbursement of Board Costs

As a condition precedent to successful completion of probation, rRespondent shall pay to the board its costs of investigation and prosecution in the amount of \$ _____. Respondent shall make said payments as follows: _____. There shall be no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by respondent shall not relieve respondent of his or her responsibility to

reimburse the board its costs of investigation and prosecution.

Option: If respondent fails to make any payment by the directed deadline(s), the stay shall terminate and the license shall be revoked without further notice or opportunity to be heard.

8. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board ~~at the end of each year of probation~~ on a schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

9. Status of License

Respondent shall, at all times while on probation, maintain an active current technician registration/certification with the board, including any period during which suspension or probation is tolled. Failure to maintain an active, current license shall be considered a violation of probation.

If respondent's technician registration/certification expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication, respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

10. Notification of Employment, Name, Mailing Address Change

Respondent shall notify the board in writing within ten (10) days of any change of employment. Said notification shall include the reasons for leaving and ~~or~~ the address of the new employer, supervisor or owner and work schedule, if known.

Respondent shall notify the board in writing within ten (10) days of a change in name, mailing address or phone number.

Failure to timely notify the board of any change in employer(s), name(s), address(es), or phone number(s) shall be considered a violation of probation.

11. License Surrender While on Probation/Suspension

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her license to the board for surrender. The board shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation.

Upon acceptance of the surrender, respondent shall relinquish his or her pocket license to the board within 10 days of notification by the board that the surrender is accepted. Respondent may not reapply for any license from the board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.

11.12. Tolling of Probation

At all times while on probation, respondent shall be employed as a pharmacy technician in California for a minimum of _____ hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation.

It is a violation of probation for respondent to work less than _____ hours per month as a pharmacy technician/exemptee. Should respondent, regardless of residency, for any reason (including vacation) cease practicing as a pharmacy technician or an exemptee in California, respondent must notify the board in writing within ten (10) days of the cessation of practice or and must further notify the board in writing within ten (10) days of the resumption of the practice. Such periods of time shall not apply to the reduction of the probation period. Any failure to provide such notification(s) shall be considered a violation of probation.

It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding three consecutive yearsthirty-six (36) months.

"Cessation of practice" means any period of time exceeding 30 days in which respondent is not engaged in the practice of a pharmacy technician as defined in sSection _____4115of the Business and Professions Code.

12.13. Violation of Probation

If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction, and the period of probation shall be automatically extended; until the petition to revoke probation or accusation is heard and decided.

If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.

13.14. Completion of Probation

Upon successful completion of probation, respondent's technician registration will be fully restored.

14. License Surrender While on Probation/Suspension

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her license to the board for surrender. The board shall have the discretion

~~whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation.~~

~~Upon acceptance of the surrender, respondent shall relinquish his or her pocket license to the board within 10 days of notification by the board that the surrender is accepted. Respondent may not reapply for any license from the board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.~~

OPTIONAL CONDITIONS OF PROBATION

(This condition will be included in the Model Order language.)

1. ~~Actual Suspension~~

~~As part of probation, respondent is suspended from the duties of a pharmacy technician for _____ beginning the effective date of this decision.~~

~~During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.~~

~~Subject to the above restrictions, respondent may continue to own or hold an interest in any entity licensed by the board in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.~~

~~During suspension, respondent shall not perform any of the duties of a pharmacy technician as provided by Section 1793.2 of the California Code of Regulations.~~

2. 15. No Ownership of Licensed Premises

Respondent shall not own, have any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90) days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.

Option: Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, associate, or partner of any additional business, firm, partnership, or corporation licensed by the board. If respondent owns or has any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board, respondent may continue to serve in such capacity.

3.16. Attend Substance Abuse Recovery Relapse Prevention and Support Groups (Appropriate for those cases with chemical dependency (alcohol, drugs))

Within thirty (30) days of the effective date of this decision, respondent shall begin regular attendance at a board-approved recognized and established substance abuse recovery support group in California, (e.g., Alcoholic Anonymous, Cocaine Narcotics Anonymous, etc.) which has been approved by the board or its designee. Respondent must attend at least one group meeting per week. Respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the duration of probation. Failure to attend or submit documentation thereof shall be considered a violation of probation.

4.17. Random Drug Screening (Appropriate for those cases with chemical dependency (alcohol, drugs))

Respondent, at his or her own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or a other drug screening program approved as directed by the board or its designee. The length of time shall be for the Respondent may be required to participate in testing for the entire probation period and the frequency of testing will be determined by the board or its designee. At all times, respondent shall fully cooperate with the board or its designee, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its designee may direct. Failure to submit to testing as directed shall constitute be considered a violation of probation. Upon request of the board or its designee, respondent shall provide documentation from a licensed practitioner that the prescription for a detected drug was legitimately issued and is a necessary part of the treatment of the respondent. Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall be considered a violation of probation. Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment drug test shall result in the immediate suspension of practice by respondent. Respondent may not resume the practice of pharmacy until notified by the board in writing.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances.

Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

5.18. Work Site Monitor (Appropriate for those cases with chemical dependency (alcohol, drugs))

Within ten (10) days of the effective date of this decision, respondent shall identify a work site monitor, for prior approval by the board, who shall be responsible for supervising respondent during working hours. The Respondent shall be responsible for ensuring that the work site monitor shall report reports in writing to the board quarterly. Should the designated work site monitor determine at any time during the probationary period that respondent has not maintained sobriety, he or she shall notify the board immediately, either orally or in writing as directed. Should respondent change employment, a new work site monitor must be designated, for prior approval by the board, within ten (10) days of commencing new employment. Failure to identify an acceptable initial or replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be considered a violation of probation.

6.19. Notification of Departure (Appropriate for those cases with chemical dependency (alcohol, drugs))

~~If respondent leaves~~ Prior to leaving the probationary geographic area designated by the board or its designee for a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in writing of the dates of departure and return, prior to leaving.

7.20. Abstain from Drugs and Alcohol Use (Appropriate for those cases with chemical dependency (alcohol, drugs))

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the board or its designee, respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of the treatment of the respondent. Additionally, respondent shall cause the prescribing practitioner to notify the board in writing, indicating their awareness of the chemical dependency. ~~Additionally, respondent shall cause the prescribing physician to notify the board in writing, indicating their awareness of the chemical dependency.~~ Respondent shall ensure that he or she is not in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs.

8.21. Tolling of Suspension

During the period of suspension, respondent shall not leave California for any period exceeding ten (10) days, regardless of purpose (including vacation). Any absence from California during the period of suspension exceeding ten (10) days shall toll the suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days respondent is absent from California. During any such period of tolling of suspension, respondent must nonetheless comply with all terms and conditions of probation.

If respondent leaves California during the period of suspension for any period exceeding ten (10) days, including vacation, respondent must notify the board in writing within ten (10) days of departure, and must further notify the board in writing within ten (10) days of return. The failure to provide such notification(s) shall constitute a violation of probation. Upon such departure and return, respondent shall not resume practice as a(n) [pharmacist, etc.] until notified by the board that the period of suspension has been satisfactorily completed. ~~to reside or practice outside this state, or for any period exceeding 10 days (including vacation), respondent must notify the~~

~~board in writing of the dates of departure and return. Periods of residency or practice outside the state or any absence exceeding a period of 10 days shall not apply to the reduction of the suspension period.~~

~~Respondent shall not act as a pharmacy technician upon returning to this state until notified by the board that the period of suspension has been completed.~~

EXEMPTEE DESIGNATED REPRESENTATIVE

The board files cases against exemptees designated representatives where the violation(s) involve significant misconduct on the part of the licensee. The board believes that revocation is the appropriate penalty when grounds for discipline are found to exist. Grounds for discipline include, but are not limited to the following violation(s) of law(s) involving:

- Possession of dangerous drugs and/or controlled substances
- Use of dangerous drugs and/or controlled substances
- Possession for sale of dangerous drugs and/or controlled substances
- Personal misuse of drugs or alcohol

If revocation is not imposed, the board recommends a minimum of a Category III level of discipline be imposed on the exemptee designated representative. This would include suspension and probation.

~~An exemptee would be required to be reexamined by the board prior to resuming work as an exemptee.~~

TERMS OF PROBATION - EXEMPTEE DESIGNATED REPRESENTATIVE

A minimum three-year probation period has been established by the board as appropriate in most cases where probation is imposed. A minimum five-year probation period has been established by the board as appropriate where self-administration or diversion of controlled substances is involved. Terms and conditions are imposed to provide consumer protection and to allow the probationer to demonstrate rehabilitation. A suspension period may also be required as part of the probation order. The board prefers that any stayed order be for revocation rather than for some period of suspension.

Probation conditions are divided into two categories: (1) standard conditions that shall appear in **all** probation cases, and (2) optional conditions that depend on the nature and circumstances of a particular case. These conditions may vary depending on the nature of the offense(s).

The board may also impose any other condition appropriate to the case where the condition is not contrary to public policy.

CATEGORY OF VIOLATIONS AND RECOMMENDED PENALTIES

CATEGORY III - Penalty

Minimum: Revocation; Revocation stayed, 90 days actual suspension, three years probation. All standard terms and conditions shall be included and optional terms and conditions as appropriate.

Maximum: Revocation

Applies to all applicable statutes and regulations

MODEL DISCIPLINARY LANGUAGE - EXEMPTEE DESIGNATED REPRESENTATIVE

The following standardized language shall be used in every decision where the order of condition is imposed.

Revocation - Single Cause

Certification number _____, issued to respondent _____ is revoked. Respondent shall relinquish his or her pocket certification to the board within 10 days of the effective date of this decision. Respondent may not petition the board for reinstatement of his or her revoked certification for three years from the effective date of this decision.

~~A condition of reinstatement shall be that the respondent retake the exemption certification examination.~~

Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$_____ within 15 days of the effective date of this decision.

Option: Upon reinstatement of his or her certification respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$_____, and said amount shall be paid in full prior to the reinstatement of his or her certification. If the respondent fails to pay the amount specified, his or her certification shall remain revoked.

Revocation - Multiple Causes

Certification number _____, issued to respondent _____ is revoked pursuant to Determination of Issues _____, separately and together. Respondent shall relinquish his or her pocket certification to the board within 10 days of the effective date of this decision. Respondent may not petition the board for reinstatement of his or her revoked certification for three years from the effective date of this decision. A condition of reinstatement shall be that the respondent retake the exemption certification examination.

Respondent shall pay to the board its costs of investigation and prosecution in the amount of \$_____ within 15 days of the effective date of this decision.

Option: Upon reinstatement of his or her certification respondent shall reimburse the board for its costs of investigation and prosecution in the amount of \$_____, and said amount shall be paid in full prior to the reinstatement of his or her certification. If the respondent fails to pay the amount specified, his or her certification shall remain revoked.

Suspension - Single Cause

Certification number _____, issued to respondent _____ is suspended for a period of _____.

Suspension - Multiple Causes

Certification number _____, issued to respondent is suspended for a period of _____ pursuant to Determination of Issues _____, separately and together. All suspensions shall run concurrently. Respondent is suspended from the duties of an exemptee for _____ beginning the effective date of this decision.

Standard Stay/Probation Order

Certification number _____ issued to _____ is revoked; however, revocation is stayed and respondent is placed on probation for _____ years upon the following terms and conditions:

Surrender

Respondent surrenders certification number _____ as of the effective date of this decision. Respondent shall relinquish his or her pocket certification to the board within 10 days of the effective date of this decision. Respondent may not reapply for any certification of the board for three years from the effective date of this decision. Respondent stipulates that should respondent apply for any certification from the board on or after the effective date of this decision, all allegations set forth in the [accusation or petition to revoke probation] shall be deemed to be true. Should respondent apply for any new license, respondent will be subject to all terms and conditions not previously satisfied.

Respondent shall meet all requirements applicable to that certification as of the date the application is submitted to the board, including, but not limited to exemptee reexamination prior to the issuance of a new registration or certification.

Respondent further stipulates that he or she shall reimburse the board for its costs of investigation and prosecution in the amount of \$ _____ within _____ days of the effective date of this decision.

Option: Respondent stipulates that should he or she apply for any certification from the board on or after the effective date of this decision that investigation and prosecution costs in the amount of \$ _____ shall be paid to the board prior to issuance of the certification.

Adoption of Stipulation

It is understood by respondent that, in deciding whether to adopt this stipulation, the board may receive oral and written communication from its staff and the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the board or other persons from future participation in this or any other matter affecting respondent. In the event this settlement is not adopted by the board, the stipulation will not become effective and may not be used for any purpose, except this paragraph, which shall remain in effect.

STANDARD CONDITIONS – To be included in all probation decisions/orders.

~~Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page _____.)~~

- ~~1. _____~~ Certification Prior to Resuming Work
- ~~5.1. _____~~ Obey all Laws
- ~~6.2. _____~~ Reporting to the Board
- ~~7.3. _____~~ Interview with the Board
- ~~5.4. _____~~ Cooperation with Board Staff
- ~~6.5. _____~~ Notice to Employers
- ~~6. _____~~ No Being Designated Representative-in-Charge
- ~~9.7. _____~~ Reimbursement of Board Costs
- ~~10.8. _____~~ Probation Monitoring Costs
- ~~15.9. _____~~ Status of License
- ~~16.10. _____~~ Notification of Employment/Mailing Address Change
- ~~17.11. _____~~ Tolling of Probation
- ~~18.12. _____~~ Violation of Probation
- ~~19.13. _____~~ Completion of Probation
- ~~20.14. _____~~ License Surrender While on Probation/Suspension

OPTIONAL CONDITIONS

~~Term Number: (Numbers reflect actual term and condition numbers as listed beginning with page _____.)~~

- ~~1.15. _____~~ Actual Suspension
- ~~2.16. _____~~ No Ownership of Licensed Premises
- ~~3.17. _____~~ Attend Substance Abuse Recovery Relapse Prevention and Support Group
- ~~4.18. _____~~ Random Drug Screening
- ~~5.19. _____~~ Work Site Monitor
- ~~6.20. _____~~ Notification of Departure
- ~~7.21. _____~~ Abstain from Drugs and Alcohol Use
- ~~8.22. _____~~ Tolling of Suspension

STANDARD CONDITIONS - TO BE INCLUDED IN ALL PROBATIONS

DESIGNATED REPRESENTATIVE

~~1. Reexamination Prior to Resuming Work~~

~~Respondent shall be suspended from working as an exemptee until he or she takes and passes the exemption examination as scheduled by the board after the effective date of this decision.~~

~~During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food animal drug retailer or any other distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving wholesaling, or repackaging or manufacturing, nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances. Respondent shall not direct or control any aspect of the practice of pharmacy.~~

~~Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy or wholesaler in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.~~

2.1. Obey All Laws

Respondent shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy.

Respondent shall report any of the following occurrences to the board, in writing, within seventy-two (72) hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state and or federal agency which involves respondent's _____ license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for of any drug, device or controlled substance.

3.2. Reporting to the Board

Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, Respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the board.

4.3. Interview with the Board

Upon receipt of reasonable notice, respondent shall appear in person for interviews with the board or its designee upon request at various intervals at a location to be determined by the board or its designee. Failure to appear for a scheduled interview without prior notification to board staff shall be considered a violation of probation.

5.4. Cooperation with Board Staff

Respondent shall cooperate with the board's inspectional program and ~~in-with~~ the board's monitoring and investigation of respondent's compliance with the terms and conditions of his or her probation. Failure to cooperate or comply shall be considered a violation of probation.

6.5. Notice to Employers

During the period of probation, rRespondent shall notify all present and prospective employers of the decision in case number _____ and the terms, conditions and restrictions imposed on respondent by the decision, as follows: - Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause his or her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner employer to report to the board in writing acknowledging that the employer has read the decision in case number _____ and terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the board.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify the direct supervisor, pharmacist-in-charge and/or owner at every pharmacy of the terms and conditions of the decision in case number _____ in advance of the respondent commencing work at each pharmacy.

Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgements to the board shall be considered a violation of probation.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary or relief service or pharmacy management service as a ~~pharmacy technician~~ designated representative or in any position for which a pharmacy technician license designated representative certificate is a requirement or criterion for employment, whether the respondent is considered an employee or independent contractor.

6. No Being Designated Representative-in-Charge

During the period of probation, respondent shall not be the designated representative-in-charge of any entity licensed by the board unless otherwise specified in this order. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

7. Reimbursement of Board Costs

As a condition precedent to successful completion of probation, rRespondent shall pay to the board its costs of investigation and prosecution in the amount of \$ _____. Respondent shall make said payments as follows: _____. There shall be no deviation from this

schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by respondent shall not relieve respondent of his or her responsibility to reimburse the board its costs of investigation and prosecution.

Option: If respondent fails to make any payment by the directed deadline(s), the stay shall terminate and the license shall be revoked without further notice or opportunity to be heard.

8. Probation Monitoring Costs

Respondent shall pay the costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board at the end of each year of probation on a schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

9. Status of License

Respondent shall, at all times while on probation, maintain an active current technician registration/certification with the board, including any period during which suspension or probation is tolled. Failure to maintain an active, current license shall be considered a violation of probation.

If respondent's technician registration/~~certification expires~~ or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication, respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

10. Notification of Employment/, Name, Mailing Address Change

Respondent shall notify the board in writing within ten (10) days of any change of employment. Said notification shall include the reasons for leaving and/or the address of the new employer, supervisor or owner and work schedule, if known.

Respondent shall notify the board in writing within ten (10) days of a change in name, mailing address or phone number.

Failure to timely notify the board of any change in employer(s), name(s), address(es), or phone number(s) shall be considered a violation of probation.

11. License Surrender while on Probation/Suspension

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her license to the board for surrender. The board shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation.

Upon acceptance of the surrender, respondent shall relinquish his or her pocket license to the board within 10 days of notification by the board that the surrender is accepted. Respondent

may not reapply for any license from the board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.

11.12. Tolling of Probation

At all times while on probation, respondent shall be employed as a designated representative in California for a minimum of _____ hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation.

It is a violation of probation for respondent to work less than _____ hours per month as an exemptee. Should respondent, regardless of residency, for any reason (including vacation) cease practicing as an exemptee/designated representative in California, respondent must notify the board in writing within ten (10) days of the cessation of practice or and must further notify the board in writing within ten (10) days of the resumption of the practice. Such periods of time shall not apply to the reduction of the probation period. Any failure to provide such notification(s) shall be considered a violation of probation

It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding thirty-six (36) months.

"Cessation of practice" means any period of time exceeding thirty (30) days in which respondent is not engaged in the practice of a pharmacy technician designated representative as defined in section _____ 4053 of the Business and Professions Code or as an exemptee as defined in section _____ of the Business and Professions Code.

12.13. Violation of Probation

If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction, and the period of probation shall be automatically extended, until the petition to revoke probation or accusation is heard and decided.

If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.

13.14. Completion of Probation

Upon successful completion of probation, respondent's certificate will be fully restored.

~~14. License Surrender while on Probation/Suspension~~

~~Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her license to the board for surrender. The board shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation.~~

~~Upon acceptance of the surrender, respondent shall relinquish his or her pocket license to the board within 10 days of notification by the board that the surrender is accepted. Respondent may not reapply for any license from the board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.~~

OPTIONAL CONDITIONS OF PROBATION

(This condition will be included in the Model Order language.)

~~1. Actual Suspension~~

~~As part of probation, respondent is suspended from the duties of a pharmacy technician for _____ beginning the effective date of this decision.~~

~~During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not do any act involving drug selection, selection of stock, manufacturing, compounding or dispensing; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.~~

~~Subject to the above restrictions, respondent may continue to own or hold an interest in any entity licensed by the board in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.~~

~~During suspension, respondent shall not perform any of the duties of a pharmacy technician as provided by Section 1793.2 of the California Code of Regulations.~~

2.15. No Ownership of Licensed Premises

~~Respondent shall not own, have any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90) days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.~~

Option: Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, associate, or partner of any additional

business, firm, partnership, or corporation licensed by the board. If respondent owns or has any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board, respondent may continue to serve in such capacity.

3.16. Attend Substance Abuse Recovery Relapse Prevention and Support Groups
(Appropriate for those cases with chemical dependency (alcohol, drugs))

Within thirty (30) days of the effective date of this decision, respondent shall begin regular attendance at a board-approved recognized and established substance abuse recovery support group in California, (e.g., Alcoholic Anonymous, ~~Cocaine~~ Narcotics Anonymous, etc.) which has been approved by the board or its designee. Respondent must attend at least one group meeting per week. Respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the duration of probation. Failure to attend or submit documentation thereof shall be considered a violation of probation.

4.17. Random Drug Screening (Appropriate for those cases with chemical dependency (alcohol, drugs))

Respondent, at his or her own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or a other drug screening program approved as directed by the board or its designee. The length of time shall be for the Respondent may be required to participate in testing for the entire probation period and the frequency of testing will be determined by the board or its designee. At all times, respondent shall fully cooperate with the board or its designee, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its designee may direct. Failure to submit to testing as directed shall constitute be considered a violation of probation. Upon request of the board or its designee, respondent shall provide documentation from a licensed practitioner that the prescription for a detected drug was legitimately issued and is a necessary part of the treatment of the respondent. Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall be considered a violation of probation. Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment drug test shall result in the immediate suspension of practice by respondent. Respondent may not resume the practice of pharmacy until notified by the board in writing.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a representative-in-charge

for any entity licensed by the board. Subject to the above restrictions, respondent may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

5.18. Work Site Monitor (Appropriate for those cases with chemical dependency (alcohol, drugs))

Within ten (10) days of the effective date of this decision, respondent shall identify a work site monitor, for prior approval by the board, who shall be responsible for supervising respondent during working hours. The Respondent shall be responsible for ensuring that the work site monitor shall report reports in writing to the board quarterly. Should the designated work site monitor determine at any time during the probationary period that respondent has not maintained sobriety, he or she shall notify the board immediately, either orally or in writing as directed. Should respondent change employment, a new work site monitor must be designated, for prior approval by the board, within ten (10) days of commencing new employment. Failure to identify an acceptable initial or replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be considered a violation of probation.

6.19. Notification of Departure (Appropriate for those cases with chemical dependency (alcohol, drugs))

If respondent leaves Prior to leaving the probationary geographic area designated by the board or its designee for a period greater than twenty-four (24) hours, respondent shall notify the board verbally and in writing of the dates of departure and return, prior to leaving. Failure to identify an acceptable initial or replacement work site monitor, or to ensure quarterly reports are submitted to the board, shall be considered a violation of probation.

7.20. Abstain from Drugs and Alcohol Use (Appropriate for those cases with chemical dependency (alcohol, drugs))

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the board or its designee, respondent shall provide documentation from the licensed practitioner that the prescription for the drug was legitimately issued and is a necessary part of the treatment of the respondent. Additionally, respondent shall cause the prescribing practitioner to notify the board in writing, indicating their awareness of the chemical dependency. Additionally, respondent shall cause the prescribing physician to notify the board in writing, indicating their awareness of the chemical dependency. Respondent shall ensure that he or she is not in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs.

8.21. Tolling of Suspension

During the period of suspension, respondent shall not leave California for any period exceeding ten (10) days, regardless of purpose (including vacation). Any absence from California during the period of suspension exceeding ten (10) days shall toll the suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days respondent is absent from California. During any such period of tolling of suspension, respondent must nonetheless comply with all terms and conditions of probation.

If respondent leaves California during the period of suspension for any period exceeding ten (10) days, including vacation, respondent must notify the board in writing within ten (10) days of departure, and must further notify the board in writing within ten (10) days of return. The failure to provide such notification(s) shall constitute a violation of probation. Upon such departure and return, respondent shall not resume practice as a(n) [pharmacist, etc.] until notified by the board that the period of suspension has been satisfactorily completed. ~~to reside or practice outside this state, or for any period exceeding 10 days (including vacation), respondent must notify the board in writing of the dates of departure and return. Periods of residency or practice outside the state or any absence exceeding a period of 10 days shall not apply to the reduction of the suspension period.~~

~~Respondent shall not act as a pharmacy technician upon returning to this state until notified by the board that the period of suspension has been completed.~~

TERMS OF PROBATION – PREMISES

A minimum three-year probation period has been established by the board as appropriate in most cases where probation is imposed. A minimum five-year probation period has been established by the board as appropriate where self-administration or diversion of controlled substances is involved. Terms and conditions are imposed to provide consumer protection and to allow the probationer to demonstrate rehabilitation. A suspension period may also be required as part of the probation order. The board prefers that any stayed order be for revocation rather than for some period of suspension.

Probation conditions are divided into two categories: (1) standard conditions that shall appear in **all** probation cases, and (2) optional conditions that depend on the nature and circumstances of a particular case. These conditions may vary depending on the nature of the offense(s).

The board may also impose any other condition appropriate to the case where the condition is not contrary to public policy.

CATEGORIES OF VIOLATIONS AND RECOMMENDED PENALTIES

The California Pharmacy Law specifies the offenses for which the board may take disciplinary action. The following are categories of violations used by the board in determining appropriate disciplinary penalties.

The board also has the authority, pursuant to Business and Professions Code section 4301(n), to impose discipline based on disciplinary action taken by another jurisdiction. The discipline imposed by the board will depend on the discipline imposed by the other jurisdiction, the extent of the respondent's compliance with the terms of that discipline, the nature of the conduct for which the discipline was imposed, and other factors set forth in these guidelines.

Premises Discipline Categories

(In this format for reference only)

CATEGORY I

Minimum: Revocation; Revocation stayed; one-year probation. All standard terms and conditions shall be included and optional terms and conditions as appropriate.

Maximum: Revocation

Category I discipline is recommended for:

- violations which are relatively minor but are potentially harmful
- repeated violations of a relatively minor nature:

CATEGORY II

Minimum: Revocation; Revocation stayed, three years probation (five years probation where self-administration or diversion of controlled substances is involved). All standard terms and conditions shall be included and optional terms and conditions as appropriate.

Maximum: Revocation

Category II discipline is recommended for:

- violations with a serious potential for harm
- violations which involve greater disregard for pharmacy law and public safety
- violations which reflect on ethics, care exercised or competence or a criminal conviction not involving dangerous drugs or controlled substances or involving possession or use of dangerous drugs or controlled substances.

CATEGORY III

Minimum: Revocation; Revocation stayed, 90 days actual suspension, three to five years probation (five years probation where self-administration or diversion of controlled substances is involved). All standard terms and conditions and optional terms and conditions as appropriate.

For a licensed premises, a minimum 14-28 days actual suspension.

Maximum: Revocation

Category III discipline is recommended for:

- most criminal convictions involving dangerous drugs or controlled substances
- knowing or willfully violating laws or regulations pertaining to dispensing or distributing dangerous drugs or controlled substances
- fraudulent acts committed in connection with the licensee's practice
- drug shortages
- violation of a licensee's corresponding responsibility.

CATEGORY IV

Penalty: Revocation

Revocation is recommend for violations the Uniform Controlled Substance Act (Heath and Safety Code 11000 et seq.)

- possession for sale
- transportation
- importation
- sale
- use of a minor for the unlawful sale of controlled substances

Revocation is also recommended when:

- a respondent fails to file a notice of defense or to appear at a disciplinary hearing where the board has requested revocation in the accusation
- a respondent violates the terms and conditions of probation from a previous disciplinary order
- prior discipline has been imposed, as progressive discipline unless the respondent can demonstrate satisfactory evidence of rehabilitation.

MODEL DISCIPLINARY LANGUAGE - PREMISES

The following standardized language shall be used in every decision where the order or condition is imposed.

Revocation - Single Cause

License number _____, issued to respondent _____ is revoked.

For premises: Respondent shall, by the effective date of this decision, arrange for the destruction of, the transfer to, sale of or storage in a facility licensed by the board of all controlled substances and dangerous drugs and devices. Respondent shall provide written proof of such disposition to the board within five days of disposition.

Revocation - Multiple Causes

License number _____, issue to respondent _____ is revoked pursuant to Determination of Issues _____, separately and together.

For premises: Respondent shall, by the effective date of this decision, arrange for the destruction of, the transfer to, sale of or storage in a facility licensed by the board of all controlled substances and dangerous drugs and devices. Respondent shall provide written proof of such disposition to the board within five days of disposition.

Suspension - Single Cause

License number _____, issued to respondent _____ is suspended for a period of _____.

Suspension - Multiple Causes

Respondent is suspended from _____ operations for _____ beginning the effective date of this decision.

Standard Stay/Probation Order

License number _____, issued to respondent is _____; however, the _____ is stayed and respondent is placed on probation for _____ years upon the following terms and conditions:

Issuance of Probationary License

The application for licensure of respondent is hereby granted, on the following terms and conditions:

1. That, respondent first meet all statutory and regulatory requirements for the issuance of a license to _____.
2. That, following the satisfaction of #1, respondent's license be issued and immediately revoked, the order of revocation being stayed and respondent placed on probation for a period of _____ years on the following terms and conditions:

Surrender

Respondent surrenders license number _____ as of the effective date of this decision. Respondent shall relinquish his or her wall license and pocket renewal license to the board within 10 days of the effective date of this decision. Respondent may not reapply for any license, permit, or registration from the board for three years from the effective date of this decision. Respondent stipulates that should he or she apply for any license from the board on or after the effective date of this decision, all allegations set forth in the [accusation or petition to revoke probation] shall be deemed to be true. Respondent shall satisfy all requirements applicable to that license as of the date the application is submitted to the board, including, but not limited to taking and passing the California Pharmacist Licensure Examination prior to the issuance of a new license. Respondent is obligated to report this surrender as disciplinary action.

Respondent further stipulates that he or she shall reimburse the board for its costs of investigation and prosecution in the amount of \$ _____ within _____ days of the effective date of this decision.

Option: Respondent stipulates that should he or she apply for any license from the board on or after the effective date of this decision the investigation and prosecution costs in the amount of \$ _____ shall be paid to the board prior to issuance of the new license.

Public Reprimand

It is hereby ordered that a public reprimand be issued against licensee, _____.

Adoption of Stipulation

It is understood by respondent that, in deciding whether to adopt this stipulation, the board may receive oral and written communication from its staff and the Attorney General's Office. Communications pursuant to this paragraph shall not disqualify the board or other persons from future participation in this or any other matter affecting respondent. In the event this settlement is not adopted by the board, the stipulation will not become effective and may not be used for any purpose, except this paragraph, which shall remain in effect.

STANDARD CONDITIONS - To be included in all probation decisions/orders.

~~Term Number: (Numbers reflect actual term and condition numbers as listed beginning with~~
~~page _____.)~~

1. Obey all laws
2. Reporting to the Board
3. Interview with the Board
4. Cooperation with Board Staff
5. Reimbursement of Board Costs
6. Probation Monitoring Costs
7. Status of License
8. License Surrender while on Probation/Suspension
9. Notice to Employees
10. Owners and Officers: Knowledge of law
11. Posted Notice of Probation
- ~~11.~~ 12. Violation of Probation
- ~~12.~~ 13. Completion of Probation

OPTIONAL CONDITIONS

~~Term Number: (Numbers reflect actual term and condition numbers as listed beginning with~~
~~page _____.)~~

- ~~1.~~ 14. Actual Suspension
- ~~2.~~ 15. Community Service Program
- ~~3.~~ 16. Restitution
- ~~4.~~ 17. Separate File of Records
- ~~5.~~ 18. Report of Controlled Substances
- ~~6.~~ 19. Surrender of DEA Permit
- ~~7.~~ 20. Posted Notice of Suspension

STANDARD CONDITIONS: TO BE INCLUDED IN ALL PROBATIONS PREMISES

1. Obey All Laws

Respondent owner shall obey all state and federal laws and regulations ~~substantially related to or governing the practice of pharmacy.~~

Respondent owner shall report any of the following occurrences to the board, in writing, within seventy-two (72) hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state and or federal agency which involves respondent's _____ license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for of any drug, device or controlled substance.

2. Reporting to the Board

Respondent owner shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, Respondent owner shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the board.

3. Interview with the Board

Upon receipt of reasonable notice, respondent shall appear in person for interviews with the board or its designee upon request at various intervals at a location to be determined by the board or its designee. Failure to appear for a scheduled interview without prior notification to board staff shall be considered a violation of probation.

4. Cooperation with Board Staff

Respondent shall cooperate with the board's inspectional program and ~~in~~ with the board's monitoring and investigation of respondent's compliance with the terms and conditions of his or her probation. Failure to cooperate or comply shall be considered a violation of probation.

5. Reimbursement of Board Costs

As a condition precedent to successful completion of probation, rRespondent owner shall pay to the board its costs of investigation and prosecution in the amount of \$_____. Respondent owner shall make said payments as follows: _____. There shall be no deviation from

this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by respondent owner shall not relieve respondent owner of his or her responsibility to reimburse the board its costs of investigation and prosecution.

Option: If respondent owner fails to make any payment by the directed deadline(s), the stay shall terminate and the license shall be revoked without further notice or opportunity to be heard.

6. Probation Monitoring Costs

Respondent owner shall pay the costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board ~~at the end of each year of probation~~ on a schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

7. Status of License

Respondent shall, at all times while on probation, maintain a current license with the board. If respondent owner submits an application to the board, and the application is approved, for a change of location, change of permit or change of ownership, the board shall retain continuing jurisdiction over the license, and the respondent shall remain on probation as determined by the board. Failure to maintain an active, current license shall be considered a violation of probation.

If respondent's license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

8. License Surrender while on Probation/Suspension

Following the effective date of this decision, should respondent cease practice ~~due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation to operate,~~ respondent owner may tender his or her premises license to the board for surrender. The board shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation.

Upon acceptance of the surrender, respondent owner shall relinquish his or her pocket wall and renewal license to the board within ten (10) days of notification by the board that the surrender is accepted. Respondent owner may not reapply for any new ownership license from the board for three years from the effective date of the surrender. Respondent owner shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.

9. Notice to Employees

Respondent owner shall, upon or before the effective date of this decision, ensure that all employees involved in permit operations are made aware of all the terms and conditions of probation, either by posting a notice of the terms and conditions, circulating such notice, or both. If the notice required by this provision is posted, it shall be posted in a prominent place and shall remain posted throughout the probation period. Respondent owner shall ensure that any employees hired or used after the effective date of this decision are made aware of the terms and conditions by posting a notice, circulating a notice, or both. Additionally, respondent owner shall submit written notification to the board, within fifteen (15) days, that this term has been satisfied. Failure to submit notification to the board shall be considered a violation of probation.

"Employees" as used in this provision includes all full-time, part-time, temporary and relief employees and independent contractors employed or hired at any time during probation.

10. Owners and Officers: Knowledge of the Law

Respondent shall provide, within thirty (30) days after the effective date of this decision, signed and dated statements from its owners, including any owner or holder of ten percent (10%) or more of the interest in respondent or respondent's stock, and any officer, stating under penalty of perjury that said individuals have read and are familiar with state and federal laws and regulations governing the practice of pharmacy. The failure to timely provide said statements under penalty of perjury shall be considered a violation of probation.

11. Posted Notice of Probation

Respondent owner shall prominently post a probation notice provided by the board in a place conspicuous and readable to the public. The probation notice shall remain posted during the entire period of probation.

Respondent owner shall not, directly or indirectly, engage in any conduct or make any statement which is intended to mislead or is likely to have the effect of misleading any patient, customer, member of the public, or other person(s) as to the nature of and reason for the probation of the licensed entity.

~~11.~~ 12. Violation of Probation

If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction and the period of probation shall be automatically extended, until the petition to revoke probation or accusation is heard and decided.

If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and

to impose the penalty which was stayed.

12. 13. Completion of Probation

Upon successful completion of probation, respondent's license will be fully restored.

OPTIONAL CONDITIONS OF PROBATION

(This condition will be included in the Model Order language.)

1. ~~Actual Suspension~~

~~As part of probation, respondent pharmacy is suspended from the operation of pharmacy for _____ days beginning the effective date of this decision.~~

~~During suspension, respondent pharmacy may not order, maintain or dispose of any dangerous drugs and devices or controlled substances. The pharmacy may not make demand or bill for any drugs or services during the period of suspension and may not process any claims for pharmacy services during the period of suspension, except as to services rendered prior to the effective date of the suspension period. The pharmacy shall not receive or transmit any prescription, new or refill, during the period of suspension. Where the pharmacy does not maintain dangerous drugs and devices or controlled substances in an area which can be closed off from the rest of the pharmacy and locked, the entire pharmacy must be closed during the period of suspension.~~

2. 14. Community Services Program

Within sixty (60) days of the effective date of this decision, respondent owner shall submit to the board or its designee, for its prior approval, a community service program in which respondent shall provide free health-care related services ~~on a regular basis~~ to a community or charitable facility or agency for at least _____ hours per _____ for the first _____ of probation. Within thirty (30) days of board approval thereof, respondent shall submit documentation to the board demonstrating commencement of the community service program. Respondent shall report on progress with the community service program in the quarterly reports. Failure to timely submit, commence, or comply with the program shall be considered a violation of probation.

3. 15. Restitution (Appropriate in cases of drug diversion, theft, fraudulent billing, or patient harm resulting from negligence or incompetence.)

Within _____ days of the effective date of this decision, respondent owner shall pay restitution to _____ in the amount of \$ _____. Failure to make restitution by this deadline shall be considered a violation of probation.

4. 16. Separate File of Records

Respondent owner shall maintain and make available for inspection a separate file of all records pertaining to the acquisition or disposition of all controlled substances. Failure to maintain such file or make it available for inspection shall be considered a violation of probation.

5.17. Report of Controlled Substances

Respondent owner shall submit quarterly reports to the board detailing the total acquisition and disposition of such controlled substances as the board may direct. Respondent owner shall specify the manner of disposition (e.g., by prescription, due to burglary, etc.) or acquisition (e.g., from a manufacturer, from another retailer, etc.) of such controlled substances. Respondent owner shall report on a quarterly basis or as directed by the board. The report shall be delivered or mailed to the board no later than ten (10) days following the end of the reporting period. Failure to timely prepare or submit such reports shall be considered a violation of probation.

6.18. Surrender of DEA Permit

Respondent pharmacy shall surrender ~~its~~this or her federal Drug Enforcement Administration (DEA) permit to the DEA, for cancellation, within 30 days of the effective date of this decision. Respondent shall provide documentary proof of such cancellation to the board or its designee. Respondent is prohibited from cease operating until notified by the board that satisfactory proof of cancellation has been received. Thereafter, respondent shall not apply/reapply for a DEA registration number without the prior written consent of the board or its designee.

Option: Respondent pharmacy may obtain a DEA permit restricted to Schedule(s) _____ controlled substance(s).

Option: Respondent pharmacy shall not order, receive, or retain any federal order forms, including 222 forms, for controlled substances.

7.19. Posted Notice of Suspension

Respondent owner shall prominently post a suspension notice provided by the board in a place conspicuous and readable to the public. The suspension notice shall remain posted during the entire period of ~~actual~~ suspension ordered by this decision.

Respondent owner shall not, directly or indirectly, engage in any conduct or make any statement, orally, electronically or in writing, which is intended to mislead or is likely to have the effect of misleading any patient, customer, member of the public, or other person(s) as to the nature of and reason for the closure of the licensed entity.

10/2005